

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

UNITED STATES OF AMERICA, ET AL. PLAINTIFFS

VERSUS CIVIL ACTION NO. 3:12-CV-790-HTW-LGI

THE CITY OF JACKSON, MISSISSIPPI, ET AL. DEFENDANTS

STATUS CONFERENCE  
BEFORE THE HONORABLE HENRY T. WINGATE,  
UNITED STATES DISTRICT COURT JUDGE,  
OCTOBER 10, 2024  
JACKSON, MISSISSIPPI

(APPEARANCES NOTED HEREIN.)

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14 ALSO PRESENT:

15 TED HENIFIN, THIRD-PARTY MANAGER  
16 A.J. JOHNSON, ESQUIRE (VIA ZOOM)  
17 SUSAN RICHARDSON, ESQUIRE (VIA ZOOM)  
18 SUZANNE ARMOR, ESQUIRE (VIA ZOOM)  
19 JIM VINCH, ESQUIRE (VIA ZOOM)  
20 SUZANNE RUBINI, ESQUIRE (VIA ZOOM)  
21 MICHELLE WETHERINGTON, ESQUIRE (VIA ZOOM)  
22 MICHAEL CRESWELL, ESQUIRE (VIA ZOOM)  
23 GABE ALLEN, ESQUIRE (VIA ZOOM)  
24 EMILY C.R. EARLY, ESQUIRE (VIA ZOOM)  
25

**IN OPEN COURT, OCTOBER 10, 2024**

THE COURT: Terri, call the case, please.

THE COURTROOM DEPUTY: Your Honor, this is United States of America versus the City of Jackson, Civil Action Number 3:12-cv-790-HTW-LGI, as well as related case, Civil Action Number 3:22-cv-686-HTW-LGI. We are here this afternoon for a status conference.

And at this time I'm going to ask the parties to state their names for the record starting with the plaintiff.

MR. FINGERHOOD: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. FINGERHOOD: Good afternoon, Your Honor. Karl Fingerhood, U.S. Department of Justice.

THE COURT: All right. Good to see you again.

MR. FINGERHOOD: Good to see you, Your Honor.

MS. WILLIAMS: Good afternoon, Your Honor. Angela Williams for the United States.

THE COURT: All right.

MS. PAIGE: Good afternoon, Your Honor. Mitzi Dease Paige, also for the United States.

THE COURT: Okay, then.

MR. FURRH: Good afternoon, Your Honor. Roy Furrh with the Mississippi Department of Environmental Quality.

THE COURT: All right.

1 MR. CAMPBELL: David Campbell with the Mississippi  
2 Department of Environmental Quality.

3 THE COURT: Thank you.

4 All right. Let's go to the defense first, and then I  
5 come back to the intervenors. Okay?

6 MR. MARTIN: Judge, Drew Martin, city attorney for  
7 Jackson.

8 THE COURT: All right. Good.

9 MS. CARR: Sheridan Carr, special assistant to the city  
10 attorney, City of Jackson.

11 THE COURT: Okay.

12 MR. WILLIAMSON: Terrell Williamson, City of Jackson.

13 THE COURT: Good. Glad to see you again. Thank you.

14 Next. Good afternoon.

15 MS. SHERMAN: My name is Lori Sherman with Forward  
16 Justice, and I'm here on behalf of the plaintiff  
17 intervenors, and I have two of my colleagues with me.

18 THE COURT: Okay. Can you just state their names?

19 MS. HILL: Good afternoon, Your Honor. Ayanna Hill  
20 with the ACLU representing the intervenor plaintiffs.

21 THE COURT: Thank you.

22 MS. HERNANDEZ: Good afternoon, Your Honor. Mikaila  
23 Hernandez with the Center for Constitutional Rights for  
24 plaintiff intervenors.

25 THE COURT: You want to spell your name?

1 MS. HERNANDEZ: Mikaila, M-I-K-A-I-L-A, Hernandez,  
2 H-E-R-N-A-N-D-E-Z.

3 THE COURT: All right. Thank you.

4 MS. HERNANDEZ: And we also have someone online as  
5 well.

6 THE COURT: All right. Thank you so much.

7 And would the person online who corresponds with her,  
8 would that person identify that person?

9 MS. EARLY: Yes. Good morning, Your Honor. Yes.  
10 Uh-oh. I froze. I'm sorry. My name is Emily Early with  
11 the --

12 THE COURT: All right, Ms. Early. Go ahead.

13 MS. EARLY: -- Center for Constitutional Rights and  
14 also plaintiffs intervenors.

15 THE COURT: Okay. Thank you.

16 Now let's go to defense over here, and then I'll come  
17 back to the remaining parties.

18 MR. HENIFIN: Ted Henifin, interim third-party manager.

19 THE COURT: All right. Thank you.

20 MS. WILSON: Good afternoon, Your Honor. Malissa  
21 Wilson, counsel for the interim third-party mgr, here with  
22 counsel Paul Calamita and Mitch McGuffey.

23 THE COURT: All right. Gentlemen, good afternoon.  
24 Thank you. All right.

25 Now, do I have anybody else? Okay. So have all the

1 introductions been completed? Apparently so.

2 MR. ALLEN: Your Honor, there are some folks online.  
3 Would you like to identify ourselves?

4 THE COURT: Well, why don't you.

5 MR. ALLEN: Good afternoon, Your Honor. My name is  
6 Gabe Allen from the U.S. Department of Justice for the  
7 United States.

8 THE COURT: Okay. Next?

9 MR. JOHNSON: Good afternoon, Your Honor. My name is  
10 A.J. Johnson. I'm here for the interim third-party manager.

11 THE COURT: Okay. Thank you, Mr. Johnson.  
12 Next?

13 MS. RICHARDSON: Susan Richardson for Patrick Townsend.  
14 I'm here for the City of Jackson.

15 THE COURT: Okay. Ms. Richardson.  
16 Next?

17 MS. ARMOR: Good afternoon, Your Honor. Suzanne Armor  
18 with the United States Environmental Protection Agency.

19 THE COURT: Okay. Good afternoon.  
20 Next?

21 MR. VINCH: Good afternoon. I'm Jim Vinch. I'm an  
22 attorney with the USEPA in Washington, DC.

23 THE COURT: Okay. Thank you so much.  
24 Next?

25 MS. RUBINI: Good afternoon. My name is Suzanne

1 Rubini. I'm with the USEPA Region 4.

2 THE COURT: Say that again now?

3 MS. RUBINI: Suzanne Rubini with USEPA Region 4.

4 THE COURT: All right. Thank you so much.

5 Next?

6 MS. WETHERINGTON: Good afternoon. Michelle

7 Wetherington, USEPA Region 4.

8 THE COURT: Thank you.

9 Next?

10 MR. CRESWELL: Good afternoon, Your Honor. I'm Michael  
11 Creswell, USEPA Region 4.

12 THE COURT: All right. Thank you.

13 Anybody else?

14 All right. Apparently not. All right. So, then, we  
15 are prepared to begin this status conference, and the intent  
16 of these proceedings is just what I stated. It's a status  
17 conference. And so this status conference will allow  
18 Mr. Henifin to give us an update, and then I would like to  
19 converse with some of my governmental people over here to my  
20 right to see what they are up to and what they have to say  
21 about this status conference, as well as what they have been  
22 doing.

23 So, Mr. Henifin, are you ready to proceed?

24 MR. HENIFIN: I am, Your Honor.

25 THE COURT: And, Mr. Henifin, I would like for you to



1 provide as much detail as you wish on these various matters  
2 that you will be apprising us on. So take your time.

3 MR. HENIFIN: Thank you, Your Honor.

4 THE COURT: I might have some questions during your  
5 presentation to sharpen some of the edges, because I might  
6 want to bring out some other points, but in the meantime,  
7 take as much time as you want. And if you would, when you  
8 switch categories, could you tell us the headings for those  
9 various categories?

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: All right. Now go ahead.

12 MR. HENIFIN: Certainly. And so I'll start with a  
13 general category. A year ago, just about exactly a year  
14 ago, you signed the order for the sewer system, and we are  
15 celebrating that one-year anniversary, so we will talk a  
16 little about that. But I think in general, we are really  
17 doing well in many areas, and I'll start with sewer. And I  
18 appreciate the opportunity to update folks.

19 We also just ended a quarter, and we are preparing our  
20 quarterly update, which will be due at the end of this  
21 month, so I don't have all of that information in front of  
22 me, so this status conference is kind of interim highlights  
23 of what will be in the quarterly report that will be due at  
24 the end of the month, and you can look forward to seeing  
25 that sometime around Halloween. I don't think it will be a

1       trick; should be a treat.

2               With that, we will continue sewer issues. The order  
3       contained a number of priority projects, and I would say the  
4       critical one were the 215 emergency sewer failures that were  
5       listed by address in the order. I stood before you a year  
6       ago and estimated as you tried to pin me down on how long it  
7       would take to get those done at two to three years. I'm  
8       happy to report to the Court today that all of those have  
9       been resolved one year after the order was signed. So those  
10      were -- if you recall, that was raw sewage that was coming  
11      out on the streets and private property and public property  
12      throughout the city, something that just isn't normal in any  
13      U.S. city. You know, you might have a few of those going on  
14      at any given time and awaiting repair, but the fact that we  
15      had 215 listed in the order and there were actually others  
16      we found along the way that were putting sewage in the  
17      streets of Jackson on a daily basis and had been doing so  
18      for years was just unheard of.

19              So we have taken the opportunity to go out and  
20      repair -- most of those required repairing pipes underground  
21      that had collapsed. We did all of this without the benefit  
22      of any federal resources. You recall that all of the money  
23      that has come to Jackson has been for the drinking water  
24      system. We used local dollars to fund the work that was  
25      required, and largely it was individual repairs at each of

1 those 215 locations that made that happen.

2 THE COURT: Now, Mr. Henifin, I want you to emphasize  
3 two points. One is the raw sewage that was spewing from the  
4 ground. Would you describe that?

5 MR. HENIFIN: So that is exactly what it is. It is  
6 untreated sewage. It is nasty and smelly and shouldn't  
7 be -- it is a public health hazard. The City was required  
8 to put signs up next to these locations as part of their  
9 consent decree obligations, but they continued to flow for  
10 months and months and years and years. There were many, one  
11 of which you witnessed during our tour, but there were  
12 several in neighborhoods where it just -- and it was across  
13 the city. It wasn't isolated to any particular  
14 socioeconomic neighborhood. There were nice neighborhoods,  
15 they were challenged neighborhoods, and everyone was sharing  
16 equally in this really public health hazard and just quality  
17 of life. Just it made your neighborhood a much worse to be  
18 with sewage flowing.

19 THE COURT: Well, just to put more illustration on your  
20 comments, I will add how horrific those incidents were to  
21 have raw sewage that normally would be flushed down a toilet  
22 popping out of the ground in locations all over the city,  
23 attended with their horrible odors and with the public  
24 feeling helpless about the matter. So these sewage  
25 eruptions were occurring all over the city, and there were

1 multiple.

2 How many would you say there were again?

3 MR. HENIFIN: There were 215 listed in the order. We  
4 think the total that we repaired was closer to 300.

5 THE COURT: 300 eruptions. You know, the one that I  
6 visited at first was out on Northside Drive, and it was less  
7 than 50 yards, would you say, or 25 yards from the nursing  
8 home?

9 MR. HENIFIN: Yes, Your Honor.

10 THE COURT: And the sewage was coming directly out of  
11 the ground, just spewing, just like a little geyser coming  
12 out of the ground, raw sewage, fit only for a commode. But  
13 it was coming out of the ground. It had been there. There  
14 were no warning signs around it. There was no indication to  
15 the public it was there other than the horrible smell that  
16 was being generated. But there were no signs up warning the  
17 public or advising the public of what was happening out  
18 there. Nor were there any signs that a sign had ever been  
19 up.

20 In fact, that situation had been recurrent and had  
21 lasted for quite a while until I took over the sewage  
22 matter, and then we started designating the areas in  
23 priority which had to be dealt with.

24 Now, Mr. Henifin, I don't want to get ahead of your  
25 presentation, but when you started working on the sewage

1 project, you didn't address immediately -- all of these  
2 outdoor eruptions immediately because you first had to deal  
3 with the sewage eruptions inside the homes.

4 MR. HENIFIN: They were kind of related, Your Honor.  
5 Those only typically happen during rainy weather, but we  
6 have been addressing those at the same time.

7 THE COURT: But when you first started, you had to deal  
8 with the sewage eruptions inside the various homes, and  
9 at -- and when those occurred, when the raw sewage invaded  
10 the homes around Jackson, how would you describe those as to  
11 how thick the sewage was or how prevalent it was?

12 MR. HENIFIN: It wasn't -- it is not terribly prevalent  
13 in homes, but when it happens in someone's home, obviously  
14 it's a huge disruption and expensive cleanup. And it will  
15 continue to happen during rainy weather even with our  
16 operation of the sewer until we can find all the sources of  
17 rainwater that get into the system, but we have minimized  
18 that in many cases and continue to try to focus on  
19 preventing it.

20 THE COURT: So then when you undertook this project of  
21 adding this sewage to the water matter, then you had to  
22 address this sewage matter immediately because it was a  
23 health hazard.

24 MR. HENIFIN: Yes, Your Honor.

25 THE COURT: Now, so then as you had a few moments ago,

1       you had hundreds of such incidents around the city of  
2       Jackson.

3             You mentioned something about signs to warn. I never  
4       saw any signs.

5             MR. HENIFIN: There actually were a number that were in  
6       place.

7             THE COURT: Where were they?

8             MR. HENIFIN: There were signs basically warning the  
9       public that raw sewage was a health hazard, to avoid it,  
10      that there was going to be work to fix it at some point.  
11      And going back to the one that you saw originally, we did  
12      find the sign later on a barricade overtop of a storm hold  
13      because they were concerned someone might fall into the  
14      storm -- manhole, and so they moved the sign barricade over  
15      to that even though it was originally intended to be on the  
16      sewer. So in defense, the system -- they were trying to put  
17      signs up where they could, and I think in many cases the  
18      signs were there.

19            THE COURT: I didn't see them.

20            MR. HENIFIN: Yes, Your Honor.

21            THE COURT: Okay. Now, continue on.

22            MR. HENIFIN: The other large item in the order as a  
23      priority project was to address the 2200 unaddressed service  
24      requests. These are things people had called the City to  
25      have -- report a sewer issue, and no one had actually gone

1 out and looked at any of those 2200 different locations. So  
2 when the order was signed and we took responsibility for the  
3 sewer system, we started investigating those 2200, meaning  
4 we had to go to them, figure out what the issue was, is it  
5 active, is it still a problem?

6 I'm happy to report that we are down to under 200 of  
7 those left after one year. So in one year, we have done  
8 over 2,000 of those unaddressed service requests. So we  
9 should have the rest of them finished by the end of November  
10 barring any other changes that we have going along. So  
11 definitely by the end of year. Our goal is to have them  
12 done by the end of November. And that -- in many cases,  
13 there was nothing left to do. In other cases, there was a  
14 repair needed to be made. But of the 2200 that were  
15 reported, again, we have seen and visited over 2,000 of  
16 those in this first year.

17 Treatment plant compliance has significantly improved.  
18 So our treatment plants, we have got three, and one in  
19 particular is the large one that handles most of the  
20 wastewater treatment in Jackson, which is the Savanna Street  
21 plant on the Pearl River. That has had traditional problems  
22 with bypasses, prohibited bypasses, and permit exceedances,  
23 and we have eliminated those sig- -- or reduced those  
24 significantly and over the last several months haven't had  
25 any prohibited bypasses or permit exceedances. A lot of

1       that is due to the contract operator and maybe the way they  
2       were operating the plant. We have been helping them  
3       understand the better ways to operate the plant and how to  
4       get more capacity through the plant, and that is proving to  
5       be very significant improvements. We still have a lot of  
6       investment that needs to be made at the Savanna Street  
7       plant, capital investment. We have identified about 36  
8       million in what I call critical needs. We haven't  
9       identified a funding source yet. And by the end of the  
10      year, we owe that plan to the plaintiffs, and we will have  
11      that submitted to the parties by the end of December, a  
12      detailed plan of how we will accomplish those.

13           THE COURT: Let me say just something else --

14           MR. HENIFIN: Sure.

15           THE COURT: -- I just thought about. On this matter of  
16      signs, I wasn't talking about JXN Water or sewage company  
17      that you are now directing not putting the signs up. I know  
18      you're supposed to put some up now, but before that, it was  
19      the City's responsibility to put the sign up, wasn't it?

20           MR. HENIFIN: Yeah. And they were -- the City had put  
21      many of those up. That's what I -- not that I like to  
22      defend the City for a lot of things, but they were getting  
23      the signs up on these overflows.

24           THE COURT: But as I said before, I didn't see them.

25           MR. HENIFIN: Yeah. The one that we visited, you



1 definitely didn't see. And there were overflows that the  
2 signs might have been knocked over. They had been up for a  
3 long time. But there were many signs in the system.

4 THE COURT: Well, but going back to this -- this  
5 situation, was there work being done by the City on those  
6 matters?

7 MR. HENIFIN: No. Most of those just signs were put  
8 up. So the difference is we don't have to put signs up now  
9 because we don't have dry weather chronic overflows.

10 THE COURT: Well I ask that because I took it upon  
11 myself just to ride around Jackson because I have to come to  
12 work.

13 MR. HENIFIN: There were little yard signs. You might  
14 have missed it, potentially. I'm not doubting that you  
15 didn't see them, Your Honor. There were 215 locations. I  
16 didn't visit them all, and I know there weren't signs at  
17 every one I visited, but what I'm saying is there were a  
18 number of places that I did see signs that were posted.  
19 They look like the little real estate signs, you know, about  
20 this big.

21 THE COURT: You also might remember that from time to  
22 time I called to tell you when homeowners were complaining  
23 that nothing had been done on their property, either in  
24 their yards or in their homes, but that was on the City's  
25 watch.

1 MR. HENIFIN: Yes, Your Honor.

2 THE COURT: That is before I took over this matter  
3 concerning the sewage.

4 MR. HENIFIN: Yes, Your Honor.

5 THE COURT: And I'd call and I would tell you how  
6 people were calling disturbed, that people who said they had  
7 to move out of their houses because of the stench and  
8 because of the raw sewage there on their floors and how they  
9 had to vacate their houses and all, and also their  
10 complaints that they were calling the City's alleged hotline  
11 but couldn't get anybody. That was a prevalent complaint  
12 that they were calling and couldn't get anybody, which is  
13 what led JXN Water to put up -- or to -- to establish its  
14 own telephone hotline on these matters.

15 MR. HENIFIN: Yes, Your Honor.

16 THE COURT: Because so many citizens were calling and  
17 could not get anybody on the telephone. Well, I just want  
18 to make sure that I cleared for any listener my comments,  
19 because the comments I made about the signs were not  
20 directed at a criticism of you and your crew. This is  
21 something that was supposed to have been done by the City,  
22 which had not been done, as far as I can see.

23 MR. HENIFIN: Yes, Your Honor.

24 THE COURT: So, now, go ahead and finish your report.

25 MR. HENIFIN: Sure. And when you signed the order on

1 sewer about a year ago, if you recall, there was a 30-day  
2 public comment period prior to that with about -- over 95  
3 percent of the public comments supporting this move to move  
4 sewer under the control of the interim third-party manager,  
5 so, again, a lot of public support for making this happen.  
6 I believe we have delivered by eliminating these chronic  
7 sewer problems where the sewer was flowing in the streets.

8 We are responsive. Not -- you know, we still hear some  
9 challenges getting through to our call center, and we've  
10 tried to investigate all those and figure out what's going  
11 on, but for the most part, we have been very responsive,  
12 hearing a lot of positive comments continue from citizenry  
13 on what we have accomplished to date in the sewer system,  
14 and, again, we are looking forward to even bigger and better  
15 things over the next year.

16 I'm going to move now to drinking water, Your Honor.  
17 So as of February, and I think I reported this in the last  
18 status conference, the system is really operating as  
19 designed, meaning we can operate at a little bit lower  
20 pressure coming out of the plant. At night, when folks  
21 aren't using water, the elevated storage tanks fill, and  
22 during the day when people are, that water is put back into  
23 the system and helps keep the pressure equal through the  
24 system without having to crank up pumps at the plant on an  
25 off-and-on basis.

1 Prior to this, prior to the JXN Water work and even  
2 early in our work, the only place you could measure pressure  
3 in the system was at the actual treatment plants as we  
4 pushed water out, and the only feedback we got was the  
5 elevation in the tanks, and it all didn't make a lot of  
6 sense most of the time. So we were constantly turning pumps  
7 on and off, which we were contributing to our own problem of  
8 breaking lines. As you turn a large pump on and turn a  
9 small pump off, there is hammer or pressure that goes  
10 through the system and actually stresses the pipes at a  
11 higher pressure than they would normally see, and the more  
12 frequently you do that, the more you loosen up joints. You  
13 cause weak spots in pipes to break, so we were kind of  
14 causing our own problem on a lot of the pipe breaks we were  
15 dealing with, and the system had been doing that for years.

16 You can imagine you are running a -- and these are big  
17 pumps. We are talking a pump that moves 8 million gallons  
18 of water a day and you switch to a pump that moves  
19 32 million gallons a day, you can imagine the pressure and  
20 the volume changes pretty instantaneously when you do that.  
21 There is not a soft start, which you have in modern  
22 treatment plants, no variable frequency starts, so these  
23 were instantaneous, just go from one smaller pump to a giant  
24 pump to get the pressure back up and get the volume you need  
25 in the system as we were losing so much water.

1           Again, since February or so, we have seen the system  
2       respond much more so like it was designed to operate, and we  
3       can attribute almost all of that to opening valves. We have  
4       found hundreds of valves in the closed position, many of  
5       them in big transmission mains. We also found several in  
6       the open position that needed to be closed where they were  
7       isolating the system from -- we have got a groundwater  
8       system and a surface water system, and those weren't  
9       isolated. So as we have made those changes, got the system  
10      valved correctly --

11           THE COURT REPORTER: Slow down, please.

12           MR. HENIFIN: Sorry. I'm getting excited. I'm talking  
13      about technical valves and water.

14           So as we were able to isolate the system, get the  
15      valves open in the correct positions throughout the system.  
16      It now can move water the way it was designed to, and that  
17      has been wonderful for the water system, made our jobs  
18      easier now as we have moved forward. We are not seeing  
19      anywhere the number of breaks that we had to repair to start  
20      with, and we have backed down on the number of crews that  
21      have to be out on a daily basis, and we are starting to get  
22      into a rhythm, a maintenance rhythm, along the distribution  
23      system.

24           That has also resulted in a significant decrease in the  
25      amount of water lost. So as we started this, water loss had

1        been estimated at various numbers, and in real numbers, or  
2        as close as we can estimate, we were putting out about 50 to  
3        55 million gallons of water a day, meaning what we measured  
4        that went out of the two treatment plants combined was  
5        somewhere in that 50 to 55 million gallons a day range.

6            What our consumers need, what our customers need, is  
7        about 18 million gallons a day. And we now have accurate  
8        enough meters on enough meters in the ground to verify that.  
9        I had estimated it early on as 15 million gallons. The  
10       meter information we have now says we need about 18 million  
11       gallons a day to serve our customers. We are putting 55  
12       into the system. We need 18 -- say round to 20, because my  
13       math is easier if we do it that way. We are losing about  
14       35 million gallons a day when we started. That is a  
15       significant amount of water loss when you only need 18 to  
16       meet the demand.

17            So we have been looking for big leaks and small leaks  
18        and leaks everywhere in the system, and as of August, the  
19        amount of water we had to put in the system was 25 percent  
20        less than it was a year ago in August. So we only have to  
21        put in 40 million gallons a day today as opposed to  
22        55 million gallons a day. Still, significantly more than  
23        the 18 we need to serve our customers.

24            We are still on the hunt for water leaks. We think  
25        most of these now are leaks subsurface, so it's water that

1 is not reaching the surface; it is moving from a broken  
2 waterline underground to an opening in a storm drain or a  
3 sewer line underground, never making it to the surface.  
4 Much harder to detect. And we are deploying new  
5 technologies to try to figure out where those might be to  
6 dig up and look. In fact, we have got four different  
7 contractors that say their technology can do that for us.  
8 We have put them, at different times, in the same locations  
9 to give us the pinpoint location where they say we need to  
10 dig down to find the leak. We haven't finished this yet, so  
11 we don't know who the winner is, because they won't be there  
12 when we start digging, and we will dig down in the locations  
13 that each of these four technology companies claim to be  
14 able to locate leaks and see who is actually accurate.  
15 Assuming one or two of them are, we will continue to use  
16 them over the next year to try to find more of these  
17 subsurface leaks throughout the system.

18 Unfortunately, if none of them are accurate, we are  
19 back to square zero in trying to find a technology to help  
20 us find these unknown leaks. But our goal is to continue to  
21 look for these large leaks, small leaks, whatever is  
22 contributing to this lost water that now is somewhere in the  
23 18 to 20 million gallons a day range and bring that --  
24 continue to bring that down over the next several years,  
25 ideally to the point where we only need somewhere around

1       30 million gallons a day. Still significantly more than our  
2       customers use. We get to that point, we can supply all of  
3       the City's water demands from just the O.B. Curtis plant and  
4       we will be able to close the J.H. Fuel plant, which will  
5       save millions of dollars in annual operating costs, which  
6       would be great for us going forward to reinvest in the  
7       system as opposed to having to operate a second plant just  
8       to put the water out into the community that doesn't get to  
9       anybody.

10           So, again, goal is all water production happens at the  
11       O.B. Curtis plant, ideally within the next few years, but we  
12       have to get the water demand, get rid of the losses down  
13       below 30 million gallons a day to be able to comfortably do  
14       that.

15           The capacity of O.B. Curtis is 50 million gallons a  
16       day. It will peak up at times, so we need to make sure we  
17       have enough reserve capacity, and that is why we wouldn't  
18       start making that decision to close the J.H. Fuel plant  
19       until we get to the 30 million gallon-a-day range. When we  
20       start getting below that, we will still have plenty of  
21       capacity to produce all the water we need at the O.B. Curtis  
22       plant.

23           So that is our future. We are working hard to get  
24       there, but a lot of water to still find to make that happen.

25           THE COURT: Now, I have raised this question before,



1 and you diligently have been seeking an answer to this  
2 question, so you know what question it is.

3 MR. HENIFIN: I think so.

4 THE COURT: Because I asked this question the first  
5 time I became acquainted with the system and recognized this  
6 water loss, and I wanted to have a quantification in terms  
7 of dollars, how much does that mean in dollar loss to us, to  
8 the citizenry, how much money is going into the ground or  
9 wherever that water loss is taking us, and that's a  
10 complicated question, I understand; is that correct?

11 MR. HENIFIN: I keep telling you that because I haven't  
12 been able to produce you an answer yet. Yes, Your Honor.

13 THE COURT: I know it. And you said that. And I asked  
14 the question because I was trying to get a report that would  
15 mean even more to the citizenry to know in terms of dollars  
16 -- how much in terms of dollars does this water loss cost  
17 when it is not making it to the homes after it has been  
18 processed. Now, we are talking about processed water,  
19 aren't we?

20 MR. HENIFIN: Yes, Your Honor. Fully treated drinking  
21 water.

22 THE COURT: So we are talking about water that has been  
23 drawn into the plant to be processed with various chemicals  
24 with the human labor and also with the chemical labor to  
25 change that water from non-drinkable water, nonconsumable

1 water, to consumable water to go to the households. And if  
2 we put this on a basis of 100 percent of what is being drawn  
3 from these sources to be tempered and cleansed so that it is  
4 fit for human consumption and also fit for human use, such  
5 as bathing, dishwashings, *et cetera*, but to go to domestic  
6 households, and we are losing such a huge amount of that  
7 hundred percent that comes out that never makes it there, it  
8 is waylaid somewhere in between the plant and to the homes,  
9 and, again, tell the audience and anyone who reads the  
10 record how much of that 100 percent does not make it.

11 MR. HENIFIN: Currently about 50 percent of that  
12 100 percent doesn't make it.

13 THE COURT: 50 percent of that purified water does not  
14 make it to the households. Instead, it's lost in transit.  
15 Now, when we went out to look at Atkins Boulevard, I think  
16 it was -- is that the name of the street?

17 MR. HENIFIN: Yeah. Colonial -- where the Colonial  
18 Golf Course was, in that area.

19 THE COURT: Right. Now, out there when we first looked  
20 at it, remember there was something like 5 million gallons  
21 of water that was being lost every day just in that one  
22 location. And now we are talking about more than one  
23 location, but 5 million gallons were being lost. And  
24 remember the disturbance was -- was manifest when one asked  
25 how long that had been going on. We had different estimates

1 as to how long that particular incident had been occurring,  
2 5 million gallons of processed water being lost every day of  
3 the week. And we had different estimates on how long it had  
4 been occurring; is that correct?

5 MR. HENIFIN: Yes, Your Honor.

6 THE COURT: So did we ever nail down how long that had  
7 been? Because, remember, at one time we were told it had  
8 been going on not for a week or a month but had been going  
9 on for seven years.

10 MR. HENIFIN: We don't have an exact date. We were  
11 never able to nail that down, but from all anecdotal  
12 evidence, it was several years at least.

13 THE COURT: Several years. And I remember when I went  
14 out there, the fear was that it had been going on for seven  
15 years. Now, that is some huge mathematics involved. That  
16 is 365 days times seven, and then multiply that 5 million  
17 gallons of lost processed water per day and what that comes  
18 to, and then as a result of that, I first asked my questions  
19 in terms of dollars: What does that mean for all of that  
20 processing and all of that loss of 5 million gallons? And  
21 that was just in one spot at the time.

22 MR. HENIFIN: We have probably found two more that size  
23 and repaired them since then. But --

24 THE COURT: But I don't know if the public recognizes  
25 that after you were shown all that, you and your crew

1 repaired all that in what kind of time frame?

2 MR. HENIFIN: The water leaks have been repaired over  
3 the period of a little -- about 22 months.

4 THE COURT: And so that has been repaired.

5 MR. HENIFIN: That one was repaired within months after  
6 we found it.

7 THE COURT: Okay. So that was repaired in 22 months.

8 MR. HENIFIN: That particular leak was repaired within  
9 three months of us finding it.

10 THE COURT: Within three months, but yet we were told  
11 that this leak had been ongoing for years. And so you and  
12 your crew got out there and dug the necessary entrenchments,  
13 located the pipe. How big was that pipe? 36? What was it?

14 MR. HENIFIN: 42-inch.

15 THE COURT: 42. And located the pipe that was ruptured  
16 that was causing this huge, huge leak, and it produced a  
17 lake, did it not?

18 MR. HENIFIN: Small lake and a big waterfall.

19 THE COURT: The waterfall was pretty, though, wasn't  
20 it?

21 MR. HENIFIN: It was down to the creek. It came up in  
22 the little lake and then rolled over the side and went down  
23 into Purple Creek.

24 THE COURT: And it was a lake, wasn't it?

25 MR. HENIFIN: Yes, Your Honor.

1 THE COURT: In fact, you all rode out there one time,  
2 at least your crew did, because you wanted to know how deep  
3 the lake was. Remember that?

4 MR. HENIFIN: Couldn't reach the bottom of it.

5 THE COURT: Yeah. At first, you couldn't. But you  
6 finally recognized how deep the lake was that was purely a  
7 manmade lake from this water loss, and you took out there  
8 with you on the boat, what, something that was about -- the  
9 pole was 36 inches, I think -- I mean 36 --

10 MR. HENIFIN: 35 feet long.

11 THE COURT: 35 feet long. And that first one -- that  
12 first foray didn't reach the bottom. And so then you had to  
13 take another pole out there to see how deep that lake was.  
14 And so how long was that particular pole?

15 MR. HENIFIN: Well, the first one was probably, like,  
16 20 feet, but it was right at 35 feet to get to the bottom.

17 THE COURT: So you got to the bottom. And how deep was  
18 that lake?

19 MR. HENIFIN: 35, 36 feet.

20 THE COURT: 35 feet. Okay. And that wasn't the only  
21 one.

22 MR. HENIFIN: We haven't found any quite like -- that  
23 deep, but we found plenty that were leaking lots of water,  
24 so about the same volume, just creating really pretty  
25 wetlands in various parts of the city.

1 THE COURT: So now with that as a backdrop, that  
2 particular -- that particular place with its peculiar  
3 problem -- I would like to say peculiar, but there were some  
4 -- some that was close to it, but that particular situation  
5 was evident to the naked eye. If anyone had walked over  
6 there, then the person would have seen that lake and also  
7 would have seen that waterfall. And, by the way, how tall  
8 would you say that waterfall was?

9 MR. HENIFIN: About -- like, the bank of the creek  
10 right there, maybe 10, 12 feet, so it was just running down  
11 the rocks there along the bank of the creek.

12 THE COURT: So this water was flowing down 10 or  
13 12 feet of rock and then headed on to this lake that was  
14 later created.

15 Now, what I was saying is this, is that to the naked  
16 eye, one could have walked over there and seen all of this  
17 and then, if the person had any real interest in it, would  
18 investigate it and recognize that all of this came from a  
19 ruptured -- ruptured pipe. But a lot of these other leaks  
20 around the city where you are losing water which amounts to  
21 this 50 percent loss is not evident by a lake or waterfall;  
22 is that correct?

23 MR. HENIFIN: That is correct, Your Honor.

24 THE COURT: And so that water loss is simply being lost  
25 out of ruptured pipes, and these pipes are underground.

1 MR. HENIFIN: We believe so, yes, Your Honor.

2 THE COURT: And so then the naked eye can't detect that  
3 on topsoil. They have to get beneath the surface in order  
4 to encounter this leak and understand how really dreadful it  
5 is. Am I correct?

6 MR. HENIFIN: We are using -- the technologies that are  
7 being deployed are typically acoustic of some sort to  
8 listen -- to listen to pipes, put devices on hydrants,  
9 valves. Our meters themselves all have listening  
10 capabilities. Trying to -- you try to get through that  
11 noise and you actually use some artificial intelligence to  
12 look at a big data set with a lot of noise in it to try to  
13 pinpoint where an actual leak might be happening, and it is  
14 pretty new technology and not overly proven is why we are  
15 trying. We really have this almost contest among four  
16 different technologists to prove out their -- their  
17 equipment to see if it would work here in Jackson on our  
18 condition and actually find some of those leaks, because you  
19 can't go around digging up every street looking for them.  
20 So you've got to listen and hope you can come up with  
21 technology that can find it.

22 THE COURT: Well, I used the example I just did about  
23 the waterfall and the lake because someone familiar with  
24 that would think that all you had to do was go around town  
25 and look for another lake or look for another waterfall when

1       they wouldn't recognize that these waters have not surfaced,  
2       that they are subsurface, and where they go after that is  
3       only explained by into the ground. And so you got to go  
4       down under the surface in order to find all these other  
5       leaks. They all are not as apparent as the one I said,  
6       although the one I said was sitting there for a terribly  
7       long time and nothing was done about it.

8               MR. HENIFIN: Well, in defense, Your Honor, you know,  
9       you see water coming out of the ground and a waterfall, you  
10      might think it's an underground spring. You might there was  
11      some other source. I don't know that anyone would  
12      immediately jump to the thought that all of that water was  
13      coming from a drinking waterline, but --

14             THE COURT: Let's go back to that lake.

15             MR. HENIFIN: Yes, sir. I won't try to defend it any  
16      longer.

17             THE COURT: No. That just won't get it, you know,  
18      because anybody who had walked out there, they might see  
19      what they thought to be a scenic waterfall, but when they  
20      took another step about 10 yards back and they see this hole  
21      in the ground that is a now lake, they recognize that was  
22      not a lake, and they would recognize that that is something  
23      called a huge leak, and it is just sitting right there. And  
24      then after you all pumped out some of the water and one  
25      could actually for a while there see part of the pipe, then



1 one knew that this was all emanating from a broken pipe.  
2 And if any city workers had gone out there, they certainly  
3 would have seen this and not been confused about a waterfall  
4 or confused about the lake. They would have known this is  
5 something called a horrendous leak. And on top of that, the  
6 City did have apparatus to indicate how much water was being  
7 lost and not getting to the homes, did it not?

8 MR. HENIFIN: Yes, Your Honor. That was a fairly  
9 straightforward math problem.

10 THE COURT: And that same -- that same inquiry that was  
11 not that difficult to determine would have shown that a  
12 hundred percent of the water being manufactured at the water  
13 plant was not getting to the homes and, instead, less than  
14 50 percent -- because now that is down to 50 percent, that  
15 is an improvement, isn't it?

16 MR. HENIFIN: It's sad, but, yes, it is an improvement.

17 THE COURT: And so it was even less than 50 percent of  
18 the manufactured 100 percent of the water coming from the  
19 plants not getting to the homes in Jackson.

20 MR. HENIFIN: In rough numbers, probably 33 percent was  
21 getting to them.

22 THE COURT: 33 percent. So you are talking about just  
23 a little over one-third of water that was being produced,  
24 processed by human endeavor, by the addition of chemicals  
25 that cost, by the public expecting to receive the water that

1 was processed for public use, only a little bit over  
2 one-third was actually making it to the homes, and since  
3 these leaks were ongoing and deep and prevalent and  
4 consequential, that had a whole lot to do with the Jackson  
5 water woes during that time period, but yet that just went  
6 unattended.

7 So then, as I just stated, when we went out there and  
8 looked at this particular problem, we saw that this water  
9 was not making it there because all of that water that was  
10 in the lake and all of that water that was in the waterfall  
11 was processed. It was drinkable. It was showerable. All  
12 of that water. Go out there and wash your dishes out there,  
13 because all of that water was processed, and yet we were  
14 told that this condition had lasted for years. So then you  
15 knew exactly where I was coming from when I asked what was  
16 the cost.

17 MR. HENIFIN: And I commit to you that we will have a  
18 cost for you in this quarterly report.

19 THE COURT: That is what I want.

20 MR. HENIFIN: Yes, sir.

21 THE COURT: I want to see, and I know the citizenry  
22 want to see, just how much money the water company before  
23 you came was losing on these leaks and how much of the  
24 citizenry was hurt not only in the loss of this treated  
25 water but also out of dollar bills out of their pockets,

1 because the City was not collecting all of the bills that  
2 were out there. A lot of folk had been excused from paying.  
3 The City was not collecting various moneys that was due the  
4 City because people were not paying their water bills. And  
5 I don't know if that is in your report either about the  
6 increase in the number of people or percentage of people who  
7 are now paying their bills. Did you intend to mention that?

8 MR. HENIFIN: Yeah, I have got that, Your Honor.

9 THE COURT: Okay. Well, then I'm going to stop here  
10 and let you get back to your report.

11 MR. HENIFIN: Well, I'm not going to let you leave this  
12 leak issue alone quite yet, because we will get you a cost,  
13 but I would like to also put on the record it contributed to  
14 the pressure problems we were having, because you are losing  
15 water, you can't keep pressure up throughout the system, and  
16 it is also a reason we have to keep the fuel plant open, so  
17 it's not just the cost of producing the water but the whole  
18 fact that we have to run a second plant and that we had  
19 pressure problems throughout the system were all aggravated  
20 by this water loss.

21 And good systems don't exceed 10 percent water loss.  
22 In fact, that is kind of the borderline EPA thinks is  
23 acceptable, and they still want you working on water loss if  
24 it was at 10 percent, and, again, we are at 50 percent and  
25 trying to get our -- work our way down to 10 would be the

1 goal ultimately.

2 That is enough on water loss.

3 THE COURT: Well, I have told you this in our various  
4 discussions. When I have reviewed everything that is going  
5 on, because that is my job, I'm impressed at the efforts  
6 that you have made, you and your crew, and they have done a  
7 wonderful job in trying to address these issues, but I still  
8 do not think that the public thoroughly understood the  
9 humongous problems that faced the water company when you  
10 came. I don't think they understood that.

11 MR. HENIFIN: I think people just --

12 THE COURT: I don't think they still understand it,  
13 but --

14 MR. HENIFIN: People just want clean, safe drinking  
15 water at the tap every day, so they don't really care about  
16 all the other problems. They just want it there.

17 THE COURT: Well, but it was overwhelming almost. I  
18 say almost because you have now been taming it. So it was  
19 not overwhelming. You have now underwhelmed it, and so I  
20 appreciate you, and I'm sure the citizens of Jackson share  
21 my comments about this, because there have been so many  
22 great changes in this matter, and if we were going to go and  
23 address it in its minutia, we would talk about all of the  
24 different areas that had to be put together.

25 MR. HENIFIN: Thank you, Your Honor.

1 THE COURT: And there was this tremendous amount of  
2 effort that had to go into this, not only in getting people  
3 to pay but also in changing the call center; making sure the  
4 call times were appropriate; making sure the costs, whatever  
5 they had been in toto, are decreasing and how much chemicals  
6 had to be put in this water. And, I mean, it's on and on  
7 and on. Every aspect of this system had to be tweaked. So  
8 that is what I'm saying.

9 MR. HENIFIN: Yes, Your Honor. Appreciate that.

10 THE COURT: All right. Go on back.

11 MR. HENIFIN: I've got a great team.

12 I'll pick it up here at water quality since we are  
13 talking about that. We're -- the lead and copper were water  
14 quality parameters we have to meet right now because we  
15 don't have the enhanced corrosion control fully in place.  
16 It, again, was an obligation. The City undertook that  
17 obligation back in 2016 as a result of some failed lead  
18 sampling. That work is finished at Fuel and under way at  
19 Curtis. We will have it done sometime next year at Curtis  
20 plant.

21 In the meantime, there's four water quality parameters  
22 we have to measure multiple times each month. And so you  
23 see those results, you can see we are making those -- we are  
24 actually meeting those parameters more and more of the time.  
25 So it's really a big improvement in the consistency of the

1 water. Those four parameters are pH, hardness, alkalinity,  
2 and dissolved inorganic carbon, and those have a good  
3 relationship to the corrosiveness of your water, which,  
4 again, could lead to leaching lead out of largely your home  
5 plumbing, but we have been able to get those -- through the  
6 work of Jacobs, who is operating our plants, and work we are  
7 doing on the distribution system, we have been able to get  
8 much more consistent in those four parameters month to  
9 month. That has been a great success story as well. So  
10 water quality is meeting the MCLs, the maximum contaminant  
11 levels, set by the Safe Drinking Water Act, so the water  
12 quality has been great.

13 We report that all the time, but it has been wonderful  
14 to see an independent study that we had nothing to do with  
15 come to Jackson and validate exactly what we have been  
16 saying. So a Yale University study has been conducted by  
17 Ambria McDonald, a Ph.D. candidate at Yale. She leads the  
18 water sustainability group for the 3M Corporation. She's  
19 pursuing her Ph.D. She is a Jackson native. She saw the  
20 Jackson water crisis, heard a lot about what was going on in  
21 Jackson, decided that her Ph.D. would be around the Jackson  
22 water system and the water quality.

23 She came down and randomly selected and got volunteers  
24 at 26 homes and four businesses to allow them to do  
25 extensive testing of the water at their taps and found that

1 every time our water met every maximum contaminant level,  
2 met the Safe Drinking Water Act. So it has been great to  
3 see that independent, because I'm always leery of people  
4 doing their own testing of our water without our knowledge,  
5 but this one -- she's got this short summary of her study  
6 that shows that our water is safe. We had nothing to do  
7 with that, so it is great to get a little validation from an  
8 outside source. Even if it is at Yale University, we still  
9 think they are pretty good.

10 There has been very few lead service lines --

11 THE COURT: You know I can't let that go.

12 MR. HENIFIN: There have been very few lead --

13 THE COURT: First of all --

14 MR. HENIFIN: I'm not going to get past that, am I?

15 THE COURT: You tried to slide that in, huh?

16 MR. HENIFIN: I did.

17 THE COURT: Well, first of all, I do not know the lady.  
18 I have never met her. And in fact, I just know that she --  
19 based on what I read, that she is from Jackson. I don't  
20 even know her race. What is her race?

21 MR. HENIFIN: She is a Black woman, Your Honor.

22 THE COURT: Okay. And so I just saw in that little  
23 blurb --

24 MR. HENIFIN: I thought you knew all the families in  
25 Jackson. Everybody that gets up here, you seem to know

1 where they went to high school. I thought for sure you knew  
2 the McDonald family.

3 THE COURT: No, I don't know her, and I don't know the  
4 family either, to my knowledge. But she came down  
5 unsolicited; is that correct?

6 MR. HENIFIN: Right. This was her decision to pursue  
7 her Ph.D., and this was her -- her thesis is around water  
8 quality and issues with water -- trusting water in the  
9 Jackson water system. So she got an advisor. Her advisor  
10 is actually from Vanderbilt, I believe, on this, or  
11 collaborator. And she has been down here doing this work on  
12 her Ph.D. thesis.

13 THE COURT: I've never met her. Have you ever met her?

14 MR. HENIFIN: Only online, Your Honor.

15 THE COURT: Only online. Okay. Is her study over?

16 MR. HENIFIN: No. She is still working on, I guess,  
17 writing her dissertation. I'm not sure what -- what the  
18 next steps are. I never got beyond a bachelor's degree, so  
19 I'm not really sure how you get to that Ph.D. piece.

20 THE COURT: So that is what she is working on? So she  
21 is supposed to submit this to her Ph.D. panel for her  
22 dissertation; is that it?

23 MR. HENIFIN: Yes, Your Honor.

24 THE COURT: Oh, I see. Okay. Did she give an ending  
25 date on there?



1 MR. HENIFIN: She is working full-time, and people I  
2 know that have pursued a Ph.D. while they're working  
3 full-time, that ending date slides, typically, a little bit,  
4 but I didn't ask her, but I will try to find out, Your  
5 Honor.

6 THE COURT: I'm curious as to when she will be finished  
7 her study.

8 MR. HENIFIN: I'll find out.

9 THE COURT: Okay. But, again, state her conclusion so  
10 far. Again, state her conclusion.

11 MR. HENIFIN: Her conclusion is that the water matches  
12 what we are reporting as far as water quality meeting all of  
13 the Safe Drinking Water Act maximum contaminant levels. So  
14 safe drinking water is what we're providing. She confirmed  
15 that at the 30 locations she did the in-depth analysis,  
16 they're receiving the same water we say we are providing  
17 everybody.

18 THE COURT: Okay. Thank you. Continue.

19 MR. HENIFIN: So lead service lines is a big topic  
20 because there's a lot of work going on across the nation on  
21 replacement of lead service lines. A new rule was just  
22 promulgated this week from EPA for a revision, I guess Lead  
23 and Copper -- LCR. Lead Copper Rule I, which is  
24 Improvement. Thank you. It's got a lot of initials, and it  
25 has changed a lot.

1 But essentially there is a lot more work to do on the  
2 part of a utility, water utility, related to lead service  
3 lines and lead in the water. As part of that, we are doing  
4 an inventory of all of our service lines across the city.  
5 Part of our inventory work is also with a predictive model,  
6 because you can imagine we couldn't go out and dig up 60,000  
7 service lines across the city reasonably. We have done  
8 hundreds because the predictive model requires validation  
9 and calibration, meaning they predict where they think lead  
10 service lines might exist based on age of housing and other  
11 history pieces, and then they ask us to go out and dig up  
12 the line to see what it is actually made of, and they put  
13 that into the model, and we have done that now at over 500  
14 locations.

15 And you can't just do it in one spot. You have to do  
16 it on the privately owned piece of line, the waterline that  
17 runs between the water meter and your house. That is your  
18 line. But we have to expose that and understand what that  
19 is made of. And then we have to do it on the city side  
20 somewhere between the water main and where it goes to the  
21 water meter. And typically we have to do a third one right  
22 on top of where it's connected to the water main, because  
23 there's what's called a gooseneck. It's a flexible part  
24 that ties into the valve that is actually connected to the  
25 water main, and many of those in many communities were made

1 of lead because they have to be bent in an interesting shape  
2 to allow the line basically to move a little bit as the  
3 ground moves around without pulling out of the main.

4 So we have to really do three, and we call them  
5 potholes. We use hydroexcavation, essentially a vacuum that  
6 sucks out the dirt so you don't make a lot of disturbance  
7 and you don't damage the pipe, and then you can see exactly  
8 what the pipe is made of. You record that, put it into your  
9 inventory, give it back to your model folks, they put all  
10 that data into the model, they run it again and say, okay,  
11 now you've got to go over to this location and we need these  
12 particular locations exposed and know what the material is.

13 The model will have about a 95 percent confidence level  
14 that they can predict where lead lines might be in the  
15 system. The good news in Jackson is we have less than ten  
16 identified. We have actually replaced the ones we have put  
17 our hands on, and every other one was on an abandoned  
18 service line of some sort from years ago. So just not very  
19 much lead in the Jackson system. So there is a positive  
20 about Jackson water system. We don't get a lot of those.  
21 Very little lead as far as the pipes go.

22 The other thing that was great to measure is the  
23 forever chemicals that a lot people are hearing in the news.  
24 PFAS and PFOA. They're polyfluorinated something. I'm sure  
25 someone here could tell me what they are. But they are used

1 in so many products. They are ubiquitous in our water  
2 systems across the country. They're used in Teflon.  
3 They're used in Scotchgard, any kind of fire-retardant  
4 clothing, flooring manufacturers, carpet. It is everywhere.  
5 We all have PFAS now already in our bodies because we have  
6 been exposed to it.

7 It is in most drinking water systems; it's in most  
8 wastewater systems. EPA, while they haven't promulgated a  
9 rule on a level, on a contaminant level, they have proposed  
10 some fairly low numbers that most people are worried to  
11 make. Here in Jackson, we have tested our water and our  
12 wastewater, and good news again: No PFAS, measurable PFAS,  
13 that we have to worry about. Not even close to these  
14 proposed levels. So Jackson doesn't have many lead lines,  
15 very few, almost none, and no PFAS. So we are ahead of the  
16 game in two areas that most people are struggling with  
17 across the country. So I like to hit the positives on our  
18 drinking water system. Not ahead of the game on the leakage  
19 yet, but we'll get there. I think that is all we have on  
20 the drinking water, if that's -- any other questions? Good.

21 THE COURT: Move to the next category.

22 MR. HENIFIN: Yes, sir. We will go to a financial. A  
23 few things there. We just completed our 2023 audit. It had  
24 an unmodified opinion. For those who aren't familiar with  
25 audits, auditors really don't like to say anything, but the

1 best you can do is an unmodified opinion. We got that for  
2 our 2023 calendar year audit, and we will have that  
3 submitted to the parties with the quarterly report. But  
4 that was good news to get that done.

5 And then the biggest news for us financially is the  
6 Mississippi Local Governments and Rural Water Systems  
7 Improvement Board, and that's the board created by the  
8 Mississippi Legislature to administer the drinking water  
9 state revolving loan fund money, has worked closely with us  
10 and they've approved an amended -- what's called an intended  
11 use plan, which lists out the projects that were going to  
12 use some of that state revolving loan fund money. That was  
13 \$450 million appropriated by Congress in 2023 -- end of --  
14 end of 2022 calendar or fiscal year '23. That 450 million  
15 has to be used in accordance with the rules of that SRF  
16 program.

17 I am working with the State and the Health Department  
18 and this board. They have really leaned in to find ways to  
19 make those dollars available to us. That IUP, that intended  
20 use plan that has now been approved by the board on the 20th  
21 of September, once finalized will obligate nearly 360  
22 million of the 450 million Congress appropriated for us.  
23 Great projects listed in there. Really going to be making  
24 some significant effort.

25 The first ones have been waiting for this approval on

1 the intended use plan. We have got design complete on the  
2 chemical feed building. And all the chemical feeds at the  
3 O.B. Curtis plant will be replaced from where they start to  
4 where they go into the system. That is a significant  
5 investment.

6 We will be changing the chlorine. I think I've  
7 mentioned before in this court that it is gaseous chlorine  
8 color that is used now, giant cylinders of gaseous chlorine.  
9 Very dangerous but widely used across the country for many  
10 years for water and wastewater chlorination. Been phased  
11 out in many places, especially where your plant is near a  
12 population, which in our case both of our plants are, and  
13 we'll be going to on-site chlorine generation, which is done  
14 with salt, so there's no hazardous chemical involved that  
15 needs to be stored in large quantities at the plant as there  
16 is today with the gaseous chlorine. And that is all in one  
17 package, one design. Design is complete, and we are working  
18 on getting that one under construction within the next few  
19 weeks, as soon as we get the final signatures on the loan  
20 agreement with the State.

21 I used loan agreement, and everyone turns their heads  
22 because the state revolving loan fund is a loan fund.  
23 Congress appropriated \$450 million to the state revolving  
24 loan fund for Jackson's drinking water system, but it is a  
25 zero-interest loan, principal forgiveness. This is all EPA

1 talk for grant, but they can't say grant. So there's no --  
2 we don't pay any of this back, but I talk in terms of it  
3 being a loan because it is following the exact same process.  
4 So there is a loan agreement for a zero-interest loan with  
5 principal forgiveness. We would all like to have one of  
6 those. We are very fortunate that Congress has provided  
7 that for us.

8 The other pile of money they gave us was --

9 THE COURT: One second.

10 MR. HENIFIN: Yes, sir.

11 THE COURT: As far as that amount of money you just  
12 mentioned, that money has been dedicated, has it not?

13 MR. HENIFIN: Yes. It was -- it was specifically  
14 required to be used for the drinking water system in Jackson  
15 under the requirements of the state revolving loan fund,  
16 which are pretty stringent requirements about developing  
17 bidding packages, how you -- Davis-Bacon wages. There is a  
18 variety of requirements in there that make those pretty  
19 challenging to do anything except infrastructure projects  
20 with it, and that's exactly what we will be doing with it.  
21 And then of that 450, this intended use plan obligates about  
22 360 million of it, and we will be providing updates to that  
23 over the next couple years to add more projects as we  
24 identify them that will use the balance of that 450 million.

25 THE COURT: But of that 450, 360 has been committed --

1 have been committed already?

2 MR. HENIFIN: Under this intended use plan, yes, sir.

3 THE COURT: And so that money is already earmarked for  
4 various projects?

5 MR. HENIFIN: Correct, Your Honor.

6 THE COURT: And, of course, those projects are projects  
7 that meet the specifications of the regulations --

8 MR. HENIFIN: Yes, Your Honor.

9 THE COURT: -- on -- for the expenditures of those  
10 moneys?

11 MR. HENIFIN: Correct.

12 THE COURT: Okay. Go to the next matter.

13 MR. HENIFIN: The balance of the money appropriated by  
14 Congress was 150 million through an emergency appropriation  
15 section of the Safe Drinking Water Act referred to as  
16 1442(b). That is the section of the Safe Drinking Water  
17 Act. We've spent over a hundred million of that to date.

18 So going back to our leak fixing, our valve changing,  
19 our valve repairs, our finding the valves, repairing the  
20 drinking water plants, operating the drinking water plants,  
21 that is where that money has been spent. So we have had an  
22 advantage over the City in getting leaks fixed and water  
23 losses. We have had this resource, this 1442(b) dollars,  
24 and we have gone through over a hundred million of it.

25 We will have spent the 150 probably within the next --



1 by the next -- say sometime next spring, we will have the  
2 balance of that obligated. So that has been a real shot in  
3 the arm for the water system to have that money available.  
4 It was a great thing that Congress did, and the fact that  
5 the EPA found this -- this section of the 14- -- or Section  
6 1442(b) of the Safe Drinking Water Act to let us use this  
7 water in a -- or money in a much more flexible way than the  
8 state revolving loan fund meaning we can pay for operating  
9 and maintenance work that you can't do under the SRF. So  
10 this 150 million has been critical for these early successes  
11 that we have done, so we are very pleased to have that and  
12 appreciate EPA making that happen.

13 THE COURT: And were any of the personnel involved in  
14 that negotiations and decision-making a part of the  
15 courthouse crowd here?

16 MR. HENIFIN: Your Honor, I think there may be a couple  
17 online. I'm not sure who was actually -- helped get that  
18 money and figure out what -- the 600 million is a large  
19 mystery. Where the number came from and how the  
20 appropriation, I think this all was behind closed doors with  
21 EPA and Congress, but I wasn't in any of those rooms, so I  
22 don't really know, Your Honor.

23 THE COURT: We were the beneficiary, in other words.

24 MR. HENIFIN: We were the beneficiary, yes, Your Honor.

25 THE COURT: Okay. And as great beneficiaries, we know

1       how to spend it appropriately.

2               MR. HENIFIN: We spend it appropriately and we are  
3       thankful we have it, yes, sir.

4               THE COURT: All right. Go to your next matter.

5               MR. HENIFIN: You asked about local revenues and growth  
6       and collection, and there is a lot of discussion about  
7       collection rate, and collection rate is a -- while a  
8       seemingly clear metric, it is really not in this case  
9       because it is related to how much you actually bill, and if  
10      you are billing a lot more than you used and even collecting  
11      more, your collection rate might not reflect what it used to  
12      look like.

13              So, for example, say we were billing in stats, real  
14      numbers, so in December of 2022, when you signed the order,  
15      we billed \$4.9 million to our customers for water, and we  
16      collected 4.4. That was a 90 percent collection rate.  
17      Sounds great. But the billing of 4.9 is about half of what  
18      we should have been billing.

19              So today, last month, August, we billed 9.8 million,  
20      and we've collected 5.8 million of that 9.8. That is only a  
21      collection rate of 60 percent, but it was over 1.4 million  
22      more than the month reported when we started at 90 percent  
23      collection rate. So there are some people that like to talk  
24      a lot about this collection rate number, but it is not  
25      really the real number. The real number is how much money

1 do -- how much are you billing and how much are you  
2 collecting and if they change in time, which they have  
3 because we are billing a lot more people for water than were  
4 billed in the past.

5 The other thing that gets pointed out is, well, it's  
6 all because we increased the rates, and we did increase the  
7 rates in January of this year by about 15 percent. So when  
8 you really look -- if we were billing 5 million in December  
9 of '22, if you only added 15 percent to that, that would be  
10 somewhere in the 5.8 million, and yet we are billing  
11 9.8 million. So it is not due to rate increase. It is due  
12 to we are working hard at getting people to pay their bills.  
13 And we've still got a long way to go.

14 So over the last several months, the average has  
15 been -- so in the first six months of this -- from October,  
16 when JXN Water was given the responsibility for all the  
17 revenue, as you recall with the sewer order, we assumed all  
18 the responsibility for debt and revenue related to water and  
19 the sewer. And in October, our net water revenue was  
20 4.6 million. Last October when you signed the order.

21 It is averaging now, over the last six months, 6.1.  
22 So, again, \$1.5 million per month increase in that short  
23 period of time. And that is only because we are busy making  
24 sure people get accurate bills and that they pay their  
25 bills. We have not even started shutting off single family

1 yet. That is within weeks.

2 The problem is we have got 11,000 customers that are  
3 more than 60 days in arrears, single-family residential  
4 customers. We don't have the capacity to turn them all off  
5 at once and then get them all restored fast enough, so we  
6 need to modify our billing system, which is designed to  
7 automate this process, that if anyone is delayed and doesn't  
8 pay, it automatically kicks out a letter, tells them they  
9 are behind, and then if they don't pay, it automatically  
10 kicks out a work order to go turn them off. And you can  
11 imagine if we flipped that switch right now and created  
12 11,000 work orders, we would go under.

13 So we need to modify our own system to meter it out in  
14 pieces that we can actually manage. Because if you cut  
15 someone off and they pay their bill, they expect you to turn  
16 them back on. We can't do that at 11,000 properties in a  
17 short period of time. So we are going to be starting in  
18 small groups, but sometime in the next few weeks, we will be  
19 ready to pull the trigger on the definition of who gets the  
20 first turnoffs, and it is going to be probably the larger  
21 balances or the oldest will be going first. And we will be  
22 out there shutting people off, and they'll have to pay their  
23 bill to get their water turned back on, and we want to make  
24 sure that we can restore it rather quickly after they pay  
25 their bill, but it might take a day or two.

1           And so the moral of the story here is if you're behind,  
2           start paying your bill. You can go online. You can create  
3           a payment plan. There is no reason that folks at this point  
4           shouldn't be paying their bills. But we will be helping --  
5           we'll incentive them a little bit by turning off their water  
6           if they don't pay.

7           THE COURT: Now, I want the public to be sure to  
8           understand that what you are providing here is an estimate  
9           on how long it would take to restore.

10          MR. HENIFIN: Yes, Your Honor.

11          THE COURT: Because I don't want them to think that  
12          they are behind now and then their water gets shut off and  
13          it is going to be cut back on two days after you pay,  
14          because you have, as you just stated, 11,000 folk who you  
15          have to address. And it takes time to replugin these folk up.

16          So then if someone's water is shut off today and they  
17          come in and pay the bill tomorrow doesn't mean that by the  
18          next day or the next day the water is going to be cut back  
19          on.

20          MR. HENIFIN: We do have goals to try to get them on.

21          THE COURT: Oh, that's what I'm telling you.

22          MR. HENIFIN: But as you're clearly explaining, volume,  
23          number of people, all those are going to play into that, and  
24          we will get it turned on quickly.

25          THE COURT: As fast as you can.

1 MR. HENIFIN: Yes, Your Honor.

2 THE COURT: But you can't give them a time period of a  
3 day or two because you don't know what the work order is  
4 going to be.

5 MR. HENIFIN: You're right, Your Honor.

6 THE COURT: And so -- and you don't know how many  
7 people will be shut off even though you are going to take  
8 them in classes or take them in groups.

9 MR. HENIFIN: Yes, Your Honor.

10 THE COURT: But you don't know how many people at any  
11 given time will be shut off at the same time for which you  
12 will have to go and reconnect them.

13 MR. HENIFIN: Correct.

14 THE COURT: And that is going to take time.

15 MR. HENIFIN: And they all get a warning letter.

16 THE COURT: And so it is not going to be a simple  
17 matter of pushing a button --

18 MR. HENIFIN: Right.

19 THE COURT: -- and starting it back up. It has to  
20 be -- it is more involved than that. And so they just have  
21 to understand that if they don't want to go through this  
22 process of waiting to see how long it is going to take to be  
23 reactivated, they better go ahead and pay now.

24 MR. HENIFIN: That is right, Your Honor.

25 THE COURT: And not get shut off, because there is no

1       telling if they get shut off how long it is going to be.  
2       Not to mention that if in the interim we have some other  
3       problems that come up that challenge the water company, you  
4       know, and so they just better go ahead and pay now.

5               MR. HENIFIN: Absolutely. If you want to avoid that  
6       situation, pay your bill, start paying it, reach out to us  
7       and start paying.

8               THE COURT: Well, there are some people who have been  
9       calling around inquiring about that, and unfortunately,  
10       there are some people who are ready to call the water  
11       company's bluff on that matter, and since it hasn't occurred  
12       in the past, they are thinking, well, they still have time,  
13       and even if it is shut off, they'll get it cut back on in a  
14       day or two, so they just go ahead and take the risk. But  
15       this is going to be a much greater risk than they think.

16              MR. HENIFIN: Yes, Your Honor.

17              THE COURT: Because it might be some time before that  
18       water is cut back on, and they should be advised not to be  
19       calling you and asking for expedited treatment, because you  
20       can't you give them expedited service. You are going to  
21       have so many people to deal with.

22              MR. HENIFIN: They'll be calling you, Your Honor.

23              THE COURT: Well, that is also why I am saying this,  
24       because I like to keep my telephone calls down, you know.  
25       So just because they went to high school with me is not

1 going to mean anything.

2 MR. HENIFIN: That's not going to get them water turned  
3 on right away, is it?

4 THE COURT: It is not going to -- that is not going to  
5 cut it back on. So no. So they have to understand they  
6 simply have to get their place in line, and it will be cut  
7 back on when their turn comes up. And in the meantime, they  
8 won't be washing many dishes or they won't be utilizing any  
9 water services around their house, won't be taking showers  
10 there at their house, but they just have to understand that  
11 this is something they brought on themselves with adequate  
12 warnings because you even had a flier, I think, at one time  
13 that told people that the efforts to cut off water was about  
14 to start. Well, it didn't start right then because of these  
15 other technical problems. But now --

16 MR. HENIFIN: We have cut off all of the people --  
17 well, close to all of them that didn't have accounts with  
18 us. So we found -- we identified those roughly 2,000  
19 properties that were using water but weren't even in our  
20 system.

21 THE COURT: That's right.

22 MR. HENIFIN: You know, you ordered the -- Entergy to  
23 turn over their customer information to us. We matched that  
24 up with our information and found a number, almost 2,000  
25 properties, that were using electricity but didn't have an



1 account with the water department.

2 THE COURT: That's right. That was the way -- that was  
3 the way we got the names.

4 MR. HENIFIN: That was perfect. And then those  
5 folks -- we have cut them off, and they had to go establish  
6 service to get their water restored. In most cases, they  
7 did exactly that and we didn't hear much from them. There  
8 were a few that got a little loud and made the news, maybe,  
9 but we then find people have established their accounts.  
10 That is why we can bill 9.8 million in a given month now,  
11 because we have got accurate meter reads, we know who has  
12 got accounts, and we need to collect that 9.8 million.  
13 Everyone needs to pay their fair share because we need that  
14 money to operate the system the way it needs to operate.  
15 This isn't just so we can build a big war chest. This is to  
16 just get day-to-day operations going and start reinvesting  
17 in the system. So it is critical that we get to the point  
18 where when we send people a bill, everybody's paying their  
19 bill, and we will work our way to get to that point. Most  
20 water utilities in the U.S. collect in excess of 99 percent  
21 of what they bill, so we've got a long way to go.

22 THE COURT: Long way.

23 MR. HENIFIN: But shutting off the water is the big key  
24 to making that happen.

25 THE COURT: For those who missed the connection, when,

1 Mr. Henifin, you said that -- that the electric company was  
2 directed to give us their accounts, that -- the theory was  
3 that if a house is receiving electricity, it is habitable  
4 and therefore it should be a house that would expect to have  
5 water. And then when the accounts didn't match, when there  
6 is an electrical account but there is no water account, then  
7 we recognize those people were not in the system. And so  
8 that was made possible from getting those records from the  
9 electric company.

10 MR. HENIFIN: Yes, it was, Your Honor. I appreciate  
11 that.

12 THE COURT: And so, you see, this is how the  
13 determination was made that you came up with this specific  
14 avenue to get that information, because I know some people  
15 might be wondering how did you know who was not getting  
16 water, and they might think there's some great big  
17 chartboard down to the water company that you can look up  
18 every address and just simply see who was not getting water  
19 or who is getting water.

20 But the simplest way is to determine if that house is  
21 habitable. If it is getting electricity or if it is getting  
22 any other utility service but not getting water service,  
23 then it does not take rocket science to recognize that they  
24 are not living there without water, so therefore they are  
25 simply not paying for it. And that is how those people were

1 identified.

2 Well, those were the major violators who weren't even  
3 in the system that had been getting water for a long period  
4 of time. We were talking not that long ago about some of  
5 these people who owe back bills of, what, hundreds of  
6 thousands of dollars?

7 MR. HENIFIN: Those aren't single family.

8 THE COURT: I know. Not single families, though. No.  
9 We had a different conversation on them.

10 MR. HENIFIN: Yes, sir.

11 THE COURT: And we are trying to work with some things  
12 on that. But, nevertheless, we are talking about some  
13 accounts that had hundreds of thousands of dollars in  
14 arrears because they essentially had never paid any bills,  
15 never paid water bills, basically, and nevertheless had been  
16 using volumes and volumes of water through their various  
17 endeavors but had not paid any water bills, and now they  
18 have been outed, and now they are going be held to task for  
19 that. And so that is where we are on that.

20 MR. HENIFIN: And our billing staff and -- you know,  
21 they make those tough calls and negotiate and prod and push  
22 to keep us from having to turn people off, but it's -- it's  
23 a tough job to be collector, basically, for the water  
24 department.

25 THE COURT: Well, you know my position on that, and I

1 have talked to you at length about this. My position on  
2 this is those serious violators knew they were violating.  
3 They knew that they owed the company, they owed the  
4 citizenry. They knew that. And so I don't see why they  
5 should be afforded much mercy, because they have allowed the  
6 rest of the people to support the system that they were  
7 bilking the entire time, and they knew they were not paying  
8 their fair share or any share, not paying anything at all.

9 MR. HENIFIN: Correct.

10 THE COURT: And yet they were consuming far in excess  
11 of what the others were utilizing, because a lot of these  
12 were companies, *et cetera*, and so if these folk were out  
13 there utilizing the system as they were and taking advantage  
14 of the rest of the citizenry, then they ought to be brought  
15 to task. So we'll get back to that later, because there  
16 might be some other measures that might be in store for  
17 people like that.

18 MR. HENIFIN: Yes, Your Honor.

19 THE COURT: It just should not be something we just  
20 simply wink and say pay a few dollars here and there and  
21 seeing no more.

22 MR. HENIFIN: Correct.

23 THE COURT: I mean, they have caused us some serious,  
24 serious financial problems, because this system has held on  
25 by a thread at times when it didn't have revenues to support

1       it, and the public didn't even appreciate that, that people  
2       not paying the bills, the water company can't run its plant.  
3       It needs to pay its people. It needs to buy chemicals. It  
4       needs to make repairs. It has all kinds of costs, and these  
5       folk who are not paying anything but enjoying what other  
6       folk are making possible, there should be something special  
7       for them, and so that might come up later on.

8               MR. HENIFIN: Well, fair warning, you are probably  
9       going to see some of those folk try to come in front of you  
10      to keep us from collecting. You are going to get your fair  
11      share of this whole effort to collect. It's on its way.

12             THE COURT: Well, I'm looking forward to seeing those  
13      folk.

14             MR. HENIFIN: You'll get to participate actively, I  
15      think, in some of those.

16             THE COURT: Well, I'm looking forward to seeing these  
17      folk who want to come in front of this Court saying that  
18      they had the wherewithal to pay, chose not to pay, and don't  
19      think they had to pay. I have heard all kinds of excuses  
20      why people didn't pay. I have heard that various people in  
21      high places had low ideas and decided that they just weren't  
22      going to pay because they didn't have to. Even some folk  
23      who were elected, that they didn't have to, they didn't have  
24      to pay. But we'll see.

25             MR. HENIFIN: Yes, Your Honor.

1 THE COURT: That is something that is on the horizon,  
2 and then we will see what the people say later on. But I  
3 can say right now I don't have very much mercy for those  
4 kinds of people. But go ahead on. Talk to us again.

5 MR. HENIFIN: I think that's all I've got, Your Honor.  
6 It has been plain. So just --

7 THE COURT: Well, let's see now. I don't think I had  
8 anything else. Let me think just for a moment. So let's  
9 take a recess. All right?

10 MR. HENIFIN: Yes, Your Honor.

11 THE COURT: Recess for 15 minutes.

12 (A recess was taken.)

13 THE COURT: I don't have any more questions, but I  
14 might have some after I hear from some other people.

15 And I'll start with the EPA. Hold it. Let me see. We  
16 have somebody with their hand up.

17 MS. HILL: Yes, Your Honor. Ayanna Hill, ACLU of  
18 Mississippi, representing the intervenor plaintiffs.

19 Your Honor, I just wanted to make it known that the  
20 intervenor plaintiffs would like to speak on the record  
21 today as well.

22 THE COURT: Speak about what?

23 MS. HILL: We would like to raise a couple issues. One  
24 of them would be a motion to modify the ISO, amongst other  
25 things.

1 THE COURT: Well, that motion -- I didn't think I had  
2 it down for today.

3 Did I, Terri?

4 MS. HILL: We have not filed one, Your Honor.

5 THE COURT: You need to file it. So you have another  
6 motion that you have filed?

7 MS. HILL: We have not. We wanted to orally make the  
8 motion, if you would --

9 THE COURT: Oh, no, I'm not going to take it orally,  
10 because the parties need an opportunity to respond to it.  
11 So then if you have some motions, then go right ahead and  
12 file them, okay? And then after you file them, call the  
13 office and get a time to argue your motions. That is going  
14 to be after everybody has had a chance to respond to it.

15 So do you have any other motions that have been filed?

16 MS. HILL: No, Your Honor. We would just like to raise  
17 other concerns that we have.

18 THE COURT: Well, this is a status conference as to  
19 where we are. And I'm going to have a time period for  
20 concerns, but right now this is a status conference to  
21 determine where we are and what's going on.

22 MS. HILL: I understand, Your Honor.

23 THE COURT: Now, let me ask this question: What is  
24 your name?

25 MS. HILL: Ayanna Hill.

1 THE COURT: A-Y-A --

2 MR. HILL: A-N-N-A.

3 THE COURT: -- N-N-A? Two Ns or one N?

4 MS. HILL: Two Ns, Your Honor.

5 THE COURT: I was right on top of it, wasn't I?

6 MS. HILL: You were. You were. You got it right.

7 Right on the money.

8 THE COURT: Okay. You are with who now?

9 MS. HILL: The ACLU of Mississippi.

10 THE COURT: And what is your background in this water  
11 controversy?

12 MS. HILL: Yes, Your Honor. So as representatives of  
13 the intervenor plaintiffs, I represent local counsel, and so  
14 I, along with my cocounsel --

15 THE COURT: You say you represent who?

16 MS. HILL: I represent the intervenor plaintiffs as  
17 local counsel.

18 THE COURT: Okay. As local counsel.

19 MS. HILL: Yes, Your Honor. I misspoke.

20 THE COURT: And your intervenor plaintiffs, did they  
21 have any background in water matters, or are they just  
22 concerned citizens who --

23 MS. HILL: Concerned citizens.

24 THE COURT. -- who feel affected by it all.

25 MS. HILL: Yes, Your Honor.



1 THE COURT: Okay. And you yourself, have you followed  
2 this litigation?

3 MS. HILL: Yes.

4 THE COURT: So have you read the various orders?

5 MS. HILL: Yes.

6 THE COURT: What about the consent order? Let's start  
7 you off at the basic, the one that set up this consortium of  
8 people here. Have you read that?

9 MS. HILL: Yes.

10 THE COURT: So do you understand the powers that these  
11 various people have here and what powers emanate from that  
12 document?

13 MS. HILL: Yes, sir. I have reviewed the interim  
14 stipulated order as well.

15 THE COURT: Okay. So did you review the other orders  
16 that came out of this court not that long ago, especially  
17 the one where I gave the public an opportunity to appear  
18 before this Court?

19 MS. HILL: Yes, Your Honor.

20 THE COURT: Do you know anything about that?

21 The green light. Press. You got it now?

22 MS. HILL: I just pressed it on.

23 THE COURT: Okay then.

24 MS. HILL: Can you hear me loud and clear now?

25 THE COURT: You are here. Now, have you gotten a

1 chance to read that? For instance, that might be  
2 informative to -- you can talk to the court reporters and  
3 order a transcript, because it was transcribed, and you  
4 might want to get up to snuff on that, also to see what they  
5 said.

6 Following that proceeding, I wrote some opinions that  
7 addressed the concerns of the people who had come here to  
8 raise those concerns, and so I wrote an opinion. You would  
9 want to read that so that you don't trade over or cover or  
10 track over covered ground already, because I responded to  
11 some of the folk who came here to offer their comments,  
12 criticisms, *et cetera*, or platitudes, but I went over those  
13 matters in that opinion, so you might want to read that too  
14 so that you know the kinds of issues that have been covered  
15 already and so that when you file your motion and then  
16 register your concerns, that you don't find yourself  
17 registering concerns which have already been thoroughly  
18 covered. But other than that, feel free to file. Okay?

19 MS. HILL: Yes, Your Honor.

20 THE COURT: Okay, then. Thank you.

21 MS. HILL: Thank you.

22 THE COURT: Okay, then. Thank you so much.

23 I saw another hand go up. Did I?

24 MS. HERNANDEZ: Yes, Your Honor.

25 THE COURT: Would you come forward?

1           And then we will get to the EPA. So just hold your  
2           comments.

3           MS. HERNANDEZ: Your Honor, it's Mikaila Hernandez. We  
4           are for the plaintiff intervenors.

5           We are parties to this case, and we would like to give  
6           a status update from our parties' side as well. And we were  
7           there at the last conference when you had the public  
8           commentary as well.

9           THE COURT: Okay. You have a status of what?

10          MS. HERNANDEZ: A status of the community concerns,  
11          because we are parties to this case.

12          THE COURT: Let me -- hold it. You have a status on  
13          the community concerns?

14          MS. HERNANDEZ: Uh-huh. Status update based on the  
15          work that the IPTM has done, that the EPA has done, the DOJ  
16          has done. So --

17          THE COURT: And so this status, is that a report?

18          MS. HERNANDEZ: There is not a report, but this is a  
19          status conference.

20          THE COURT: Yes, it is. But do you have a report?

21          MS. HERNANDEZ: Is a report required for a status  
22          conference to participate?

23          THE COURT: So I take that your answer is no, you don't  
24          have a report.

25          MS. HERNANDEZ: Does every -- does the EPA have a

1 report? Does the City have a report?

2 THE COURT: But I'm asking you do you have one?

3 MS. HERNANDEZ: We do have a report back, yes.

4 THE COURT: And who did your report.

5 MS. HERNANDEZ: We did. The community did.

6 THE COURT: Who is "we"?

7 MS. HERNANDEZ: The community. Plaintiff intervenors.

8 THE COURT: The community couldn't have written a  
9 report together, so who did the report?

10 MS. HERNANDEZ: What do you mean, "who did the report"?

11 THE COURT: Is one written?

12 MS. HERNANDEZ: We have a status update as parties.

13 THE COURT: I asked you a question. Is it written?

14 MS. HERNANDEZ: We don't have a written report.

15 THE COURT: So then the report that you would purport  
16 to give is something that you are giving.

17 MS. HERNANDEZ: It's something that we are giving  
18 orally, yes.

19 THE COURT: Okay, then.

20 MS. HERNANDEZ: At this status conference, yes.

21 THE COURT: Okay. Thank you. I want you to give your  
22 report in writing, and so that when I have my next status  
23 conference, I would have had a chance to study it and so  
24 would they, so they'll know then what you're about to say.

25 MS. HERNANDEZ: Okay. Well, we did inform the Court

1       that we would be attending this status conference and  
2       requested a time to speak.

3               THE COURT: Oh, no problem.

4               MS. HERNANDEZ: I thought all the parties were giving  
5       an update on the status.

6               THE COURT: But they are in a different situation than  
7       you're in.

8               MS. HERNANDEZ: But we are parties to the case.

9               THE COURT: You are arguing with me?

10              MS. HERNANDEZ: I'm just saying, Your Honor, that we  
11       are --

12              THE COURT: I said are you arguing with me?

13              MS. HERNANDEZ: I'm just pushing back on the  
14       assertion that we don't have a right --

15              THE COURT: Then you are arguing with me, then, aren't  
16       you? Won't you sit down.

17              MS. HERNANDEZ: Thank you, Your Honor.

18              THE COURT: Is there anybody else over there who has  
19       court manners who would like to address the Court?

20              MS. SHERMAN: As the plaintiff intervenors?

21              THE COURT: No. I have heard enough from there. If  
22       you have a report, put it in writing.

23              Now then, EPA. My question to you -- first of all, how  
24       are you doing this afternoon?

25              MR. FINGERHOOD: I'm doing well right now. Thank you,

1 Your Honor.

2 THE COURT: You are good. You have been here many  
3 times. And you do understand protocol, you know.

4 Now, my question to you, though, is, from what  
5 Mr. Henifin has provided -- and you have been with us the  
6 entire time since day one, and so you have heard me go over  
7 various aspects of this particular matter -- do you have any  
8 update on what he said?

9 MR. FINGERHOOD: No, Your Honor. For purposes of the  
10 status report, we agree that there has been some great  
11 progress made. The third-party manager meets regularly with  
12 both the EPA and state technical people to discuss the work  
13 that he is proposing, the work that he has done, and so I  
14 have nothing to report on that. I think they have been  
15 working well.

16 And on the financial side of things too, I know perhaps  
17 in the past there have been some conflicts there, but I  
18 think even recently those discussions have been going  
19 smoothly as well.

20 THE COURT: There's a second matter. Besides just  
21 asking how you are reacting to Mr. Henifin because you have  
22 been here with us the entire time and you know what steps we  
23 have endured to get to where we are at the present time, but  
24 I understand that your agency is holding a conference  
25 tonight for community input; is that correct?

1 MR. FINGERHOOD: Yes. It's a public comment.

2 THE COURT: Now, I know that there was a provision for  
3 public comment, and we had dealt with that at some time  
4 before when you talked about the public comment period  
5 before, so we had gone through all of that, and -- and I did  
6 have that period for public comment where -- I think I did  
7 maybe two of them where we allowed people to come in to make  
8 their public comments, and so we did that. We set that  
9 aside for them to do. But there's one tonight I was a bit  
10 surprised at. This doesn't seem to be a part of the regular  
11 protocol for public comment, or am I missing something on  
12 that?

13 MR. FINGERHOOD: No, you're correct, Your Honor. This  
14 isn't a formal public comment meeting. I guess maybe an  
15 outreach meeting would be a more appropriate title. It's to  
16 hear from the community about the progress that has been  
17 made to date and any concerns they may have and what they  
18 would like to see in the future. It's not a formal  
19 proceeding. There won't be any response to comments  
20 prepared.

21 And it is something that we have done in the past too.  
22 I think shortly after the original interim stipulated order,  
23 there was a similar, you know, public outreach session held  
24 in January of that year. I think the actual -- the Deputy  
25 Assistant Attorney General was there, the U.S. Attorney at

1 the time was there.

2 And then we also had, I think in March that year, some  
3 meetings with smaller groups, business owners, school  
4 officials, public health officials, to get some input at  
5 that point too. So it has been kind of a process that we  
6 have been doing really from shortly after the interim order  
7 was entered.

8 THE COURT: Now, I understood why you wanted the public  
9 comment section or experience after this Court first entered  
10 this fray and went about issuing some orders on some  
11 matters, especially when there was a combination on the  
12 water plant along with the sewage and all of that, but under  
13 what grant are you marching for this particular public  
14 comment? What does it emanate from? What document? What  
15 statutory enabling matter, or is this just something that  
16 EPA thought would be a good thing to do?

17 MR. FINGERHOOD: Right. I think there is no legal  
18 requirement or regulatory requirement. I think it had been  
19 some time since the last kind of outreach meeting had been  
20 held, and so it was, you know, thought that it would be a --  
21 it was overdue to kind of hear from the community.

22 THE COURT: Well, then, I'm further mystified that if  
23 you just simply wanted an outreach to determine the status  
24 of things, why didn't you ask the Court for a status  
25 meeting?



1           MR. FINGERHOOD: Well, it wasn't -- I mean, we have  
2           the -- we wanted to get, I guess, the public's thoughts as  
3           far as what they have -- the improvements they have seen, if  
4           they have been having any, you know, issues with, you know,  
5           not getting notified of -- you know, if there is a  
6           boil-water notice associated with some construction work,  
7           things like that. Just wanted to hear from the community.  
8           This is just feedback that EPA is going to use to -- for its  
9           own purposes. And to the extent there are concerns related  
10          to either state or the third-party manager, we'll share  
11          those with them as we have done in the past.

12          THE COURT: Well, but as you have done in the past, you  
13          had notified the Court that you would like to do that, and I  
14          held it here in the courtroom and invited all who were  
15          interested to come. So why is this procedure different?

16          MR. FINGERHOOD: Right. Well, this isn't a formal  
17          procedure. It's just an outreach meeting. In the past, for  
18          example, when we had the -- the public comment, those were  
19          more formal procedures. People mentioned, for example, they  
20          had a sewer backup at their home or an overflow, and so we  
21          relayed those concerns to the third-party manager and he  
22          followed up with those people, and so to the extent we get  
23          those types of comments, we will pass them on.

24          THE COURT: Will you have a stenographer there at this  
25          particular session?

1 MR. FINGERHOOD: No. There is no court reporter or  
2 anything like that.

3 THE COURT: Will you make a written report on it?

4 MR. FINGERHOOD: We -- this is, like I said, for, you  
5 know, EPA's internal purposes. We don't plan on issuing any  
6 report or anything like that.

7 THE COURT: So there will not be a public assessment of  
8 the meeting?

9 MR. FINGERHOOD: Right. I mean, it is open to the  
10 public.

11 THE COURT: I understand open to the public, but as far  
12 as drawing any conclusions from what is stated during the  
13 course of those proceedings, will there be a record of that?

14 MR. FINGERHOOD: No, no official record.

15 THE COURT: Will there be any potential adverse  
16 consequences flowing from that?

17 MR. FINGERHOOD: I'm not sure what you're referring to.

18 THE COURT: Well, EPA is going to conduct this, and I  
19 would imagine that EPA is going to either take notes or  
20 record. So are you going to do either one of those?

21 MR. FINGERHOOD: I'm sure people may take notes, but  
22 there is no official note-taker, no recording that is going  
23 to be prepared. If somebody has a concern, you know, that  
24 we think maybe the State might know the answer to or it is  
25 something that the third-party manager could address, then,

1       you know, we'll pass that on to them as we have done in the  
2       past.

3               THE COURT:   So there will be an open microphone there?

4               MR. FINGERHOOD:   Correct.

5               THE COURT:   So then will you be taking the names of  
6       people who approach the microphone?

7               MR. FINGERHOOD:   Yeah, not specifically.   If they want  
8       to give their names.   I mean, especially if they want some  
9       sort of follow-up if they have a specific issue.

10              THE COURT:   Now, I don't understand that answer.   So  
11      you are saying that people can approach the microphone and  
12      potentially complain but are not required to give their  
13      names or addresses?

14              MR. FINGERHOOD:   I think that's -- that's the case, but  
15      if they would want someone to try and follow up on that,  
16      then I think someone would ask, you know, can we get your  
17      name and contact information?

18              THE COURT:   Well, how would you expect such a program  
19      to be valuable when you can't determine the veracity of the  
20      persons who are appearing before you?   If you don't even  
21      know their names or addresses, how can you determine that  
22      they are really being truthful with what they are saying or  
23      they're having the experience they say they are saying --  
24      they are experiencing?

25              MR. FINGERHOOD:   Well, I mean, it's not an evidentiary

1 proceeding. It is just an opportunity for people to say  
2 things, and if people want to say things that -- you know,  
3 what's on their minds, you know, it's not an evidentiary  
4 hearing.

5 THE COURT: So you are not going to even verify whether  
6 these persons own a piece of property or are renting in  
7 Jackson?

8 MR. FINGERHOOD: It is open to the public, so --

9 THE COURT: Anybody who wants to get up and just say  
10 something?

11 MR. FINGERHOOD: Right.

12 THE COURT: No matter whether that person is a citizen  
13 of Jackson, a homeowner in Jackson, a renter in Jackson, or  
14 just a trucker going through Jackson, you are just saying  
15 that it doesn't matter?

16 MR. FINGERHOOD: Right. They can come in and voice  
17 their opinion. And obviously if they have a specific  
18 concern or they make some sort of claim that they want to be  
19 followed up on, then we would, you know, ask if they want to  
20 give their name and number and whatever contact information.  
21 If they don't, then, you know --

22 THE COURT: And who will be the moderator?

23 MR. FINGERHOOD: It will be Assistant U.S. Attorney  
24 Mitzi Paige.

25 THE COURT: And so she will be moderating this

1 discussion.

2 MR. FINGERHOOD: Yes, sir.

3 THE COURT: And I suppose as moderator she will have  
4 some powers of moderation, like finding out who is talking?

5 MR. FINGERHOOD: I don't think that would be an opening  
6 question. I think -- as Your Honor said, I think it is  
7 going to be an open mic type of situation. Someone will  
8 raise their hand and, you know, someone will bring a  
9 microphone to them.

10 THE COURT: I never heard of a proceeding like that.  
11 Is this an official proceeding?

12 MR. FINGERHOOD: No, it is not an official --

13 THE COURT: So this is -- this is nonofficial.

14 MR. FINGERHOOD: Right. It is for EPA's own and DOJ's  
15 own purposes just to hear from the community. There is no  
16 recording. In our past meetings, we have -- we have really  
17 only had concerned people from Jackson show up. We haven't  
18 had by-passers come in. And for the public comment period,  
19 it was a more formalized process where we did have a court  
20 reporter and we did prepare a transcript and did have people  
21 give their, you know, names and contact information, but  
22 this is not that type of process. It is supposed to be  
23 informal, and it is an opportunity to hear from the  
24 community.

25 THE COURT: What code section authorizes this? I have

1 never heard of this before in this informal context with  
2 these loose procedural indicators of anybody who can get up  
3 and say anything without any aspect of being tied to what  
4 they were saying or involved in what they were saying, and I  
5 have just never heard of a setting like this. So what is  
6 the regulatory pronouncement for this?

7 MR. FINGERHOOD: I don't believe there is a regulation  
8 that establishes this. It's just, you know, as the  
9 regulatory agency, EPA wants to hear from the public, and if  
10 there are, like I said, specific concerns or claims that are  
11 made, then, you know, we can ask for people to provide their  
12 information, but they -- we're not requiring it and we're  
13 not, you know, having people verify their address when they  
14 come in. It is just an open listening session.

15 THE COURT: Do you expect the press to be there?

16 MR. FINGERHOOD: I do think that there will likely be  
17 some press that show up.

18 THE COURT: Did you invite the press? Not you  
19 personally but your agency, your agents, did you invite the  
20 press?

21 MR. FINGERHOOD: I don't think they were specifically  
22 invited, but I think we did reach out to them to publicize.

23 THE COURT: So you notified them?

24 MR. FINGERHOOD: Yeah, we did notify them.

25 THE COURT: And what did you notify them of?

1 MR. FINGERHOOD: That, you know, we were having these  
2 outreach meetings, the date, the location, the times.

3 THE COURT: And this notification gave all the  
4 appearance of an official proceeding?

5 MR. FINGERHOOD: No.

6 THE COURT: Your notification didn't say that this is  
7 thoroughly unofficial?

8 MR. FINGERHOOD: No. It said it's just a public  
9 outreach.

10 THE COURT: Put on by the EPA.

11 MR. FINGERHOOD: EPA and DOJ.

12 THE COURT: So it gives people the impression that it  
13 is a formalized proceeding.

14 MR. FINGERHOOD: Well, no, not a -- it is us wanting to  
15 hear from the community. It's not a --

16 THE COURT: But you don't know if you're hearing from  
17 the community. You said you don't know where these people  
18 will be coming from.

19 MR. FINGERHOOD: Right.

20 THE COURT: So how do you know you are hearing from the  
21 community?

22 MR. FINGERHOOD: Well, we are hearing from people who  
23 want to come up to the microphone. We will have sign-in  
24 sheets, so if people do want to sign in, they can.

25 THE COURT: But if they don't want to sign in, they

1 don't have to.

2 MR. FINGERHOOD: Right.

3 THE COURT: And so, then, how do you know, then, that  
4 the majority of your attendees won't be just political  
5 hacks? How do you know that? You can't know that, can you?

6 MR. FINGERHOOD: No, I don't know that.

7 THE COURT: So, then, you don't know what motive these  
8 people might have or, for that matter, as I said before,  
9 whether they have a water issue at all.

10 MR. FINGERHOOD: That's correct.

11 THE COURT: I just never heard of that.

12 MR. FINGERHOOD: I think it is actually somewhat,  
13 common, Your Honor, not just for EPA but across the  
14 government, especially, you know, more recently that the  
15 regulators want to hear from the communities that they are  
16 working with. So it's not a formal process and there is no  
17 kind of regulatory basis for it, and there is no, I guess,  
18 required outcome either. We -- we would like to hear from  
19 them and, you know, they may have specific concerns; they  
20 may have general concerns; they may have praise. And so  
21 we're -- we just want to hear whatever they have to say.

22 THE COURT: So how much publicity did you submit on  
23 this matter? I didn't hear about it until the other day.  
24 So how long has your publicity machinery been operating?

25 MR. FINGERHOOD: Well, I don't know if we have a



1 publicity machinery, but there are some, you know, public  
2 affairs people at EPA, and I think they sent out emails to  
3 people who had attended past meetings. Also, you know, the  
4 local TV networks, radio stations, you know, they got a, you  
5 know, notification and request to, you know, let the public  
6 know.

7 THE COURT: When is the last time you had such a  
8 meeting anywhere in the country?

9 MR. FINGERHOOD: Well, I know specifically in Jackson,  
10 we had one in March, I guess following the --

11 THE COURT: Well, you know, I know about the ones that  
12 were held in three different venues here.

13 MR. FINGERHOOD: Right.

14 THE COURT: But that had a different procedural  
15 background. And not only had a different procedural  
16 background, but the Court was notified on all three of  
17 those.

18 MR. FINGERHOOD: Right.

19 THE COURT: Unlike this one. The Court was not  
20 notified formally, was it?

21 MR. FINGERHOOD: Right. Well, we did provide a letter  
22 to the Court in advance.

23 THE COURT: After you had -- not in advance. You mean  
24 after you had planned it.

25 MR. FINGERHOOD: Yeah. But before it was publicized.

1 But the -- you know, it is not that unheard of. In fact,  
2 you know, the third-party manager has quarterly, you know,  
3 meetings where the public can come in. He also has -- I  
4 mean, I think this is something that is done, you know, in  
5 all different situations, especially more recently where,  
6 you know, the regulator would like to hear from the  
7 community.

8 THE COURT: What about Mr. Henifin? Was he informed?

9 MR. FINGERHOOD: Yes, he was informed. As was the City  
10 and the State and the intervenors. So we did let them know.

11 THE COURT: Do you have your public announcement? Do  
12 you have that with you?

13 MR. FINGERHOOD: We have -- yeah, we have a -- is that  
14 the press release?

15 THE COURT: Yes, press release will do. Could you read  
16 it into the record?

17 MR. FINGERHOOD: It is -- I can also submit a copy, but  
18 I'm also happy to read it into the record.

19 THE COURT: Okay. I'll take the hard copy for the  
20 record, but could you go ahead and read that into the  
21 record?

22 MR. FINGERHOOD: Sure. "Community input needed for  
23 City of Jackson drinking water system.

24 "September 26, 2024.

25 "Contact Information EPA Region 4 Press Office.

1 "404-562-8400.

2 "Jackson, Mississippi. (September 26, 2024) - the U.S.  
3 Environmental Protection Agency (EPA) and U.S. Department of  
4 Justice will hold public meetings to get community input on  
5 mid- and long-term solutions to improve Jackson's drinking  
6 water system. This feedback will assist the agency's  
7 oversight of the drinking water system. The meetings will  
8 be held at the Mississippi e-Center at Jackson State  
9 University located at 1230 Raymond Road. The meetings will  
10 be held on Thursday, October 10th at 6 p.m. Central Standard  
11 Time in the e-Logistics Room and Friday, October 11th at 10  
12 a.m. Central Standard Time in the California Room.

13 "The EPA and DOJ have heard from the public in previous  
14 meetings, letters, emails, and phone calls concerning the  
15 future of the drinking water system. In the upcoming  
16 meetings, the EPA and DOJ are seeking additional community  
17 input on the future of the system.

18 "Background.

19 "On November 29, 2022, the United States District Court  
20 for the Southern District of Mississippi" -- that would be  
21 Your Honor -- "entered an Interim Stipulated Order (ISO),  
22 agreed to by the EPA, the Department of Justice, the  
23 Mississippi State Department of Health, and the City of  
24 Jackson to: (1) create a Priority Projects List with steps  
25 needed to stabilize the City's drinking water system, remedy

1 problems that contributed to the water crisis, and establish  
2 sustainable practices; (2) appoint Edward 'Ted' Henifin as  
3 the Interim Third-Party Manager (ITPM) to manage the City's  
4 drinking water system and implement the Prior Projects List;  
5 and (3) delay further litigation while the Parties (EPA,  
6 MSDH, DOJ, and the City) worked on a longer-term solution.

7 "In addition to hearing from the community at the  
8 meetings, we have created an email box to gather your input.  
9 Comments can also be sent to JacksonMSWater@epa.gov until  
10 Friday October 31, 2024.

11 "The EPA and DOJ cannot discuss details of negotiations  
12 with the City or MSDH about this civil enforcement action.

13 "For more information, please visit  
14 [www.epa.gov/ms/jackson-ms-drinking-water](http://www.epa.gov/ms/jackson-ms-drinking-water)."

15 And that's it. It has some language if you need  
16 assistance for different languages.

17 THE COURT: All right. Thank you. If you would make  
18 that copy available to my courtroom department here, I would  
19 appreciate it. Do you want to take that note up from your  
20 brain trust first?

21 MR. FINGERHOOD: I will when I return.

22 THE COURT: Thank you. Now -- let me see it. Who came  
23 up with the catchy title, "Community input needed for City  
24 of Jackson drinking water system"?

25 MR. FINGERHOOD: Someone in the EPA public affairs

1 office.

2 THE COURT: Okay. And then whose idea was this -- this  
3 whole matter right here and decision not to go through the  
4 Court, for instance? Whose decision was that?

5 MR. FINGERHOOD: Well, I think it's something, as I  
6 said, that has been done in other cases and not just -- you  
7 know, not just cases but other issues where the regulator  
8 wants to hear from the community. I think it's kind of a,  
9 you know, principle of good government that you want to hear  
10 from the constituents. I think, like I said, it is not  
11 going to be transcribed, and perhaps that's a setting that  
12 might make people feel more comfortable to say what they  
13 have to say. And as Your Honor says maybe, you know, we --  
14 it is not going to be verified. They are not under oath. And  
15 it's just to hear from the community, and it's, you know,  
16 something that I think is being done more and more when the  
17 government is involved in, you know, taking certain  
18 regulatory actions.

19 THE COURT: So then it says here on the background that  
20 this stipulated order was entered, "agreed to by the EPA,  
21 the Department of Justice, the Mississippi State Department  
22 of Health, and the City of Jackson (1) to create a Priority  
23 Projects List with steps needed to stabilize the City's  
24 drinking water system, remedy problem that contributed to  
25 the water crisis, and establish sustainable practices."

1           That was part of the stipulated order, correct.

2           MR. FINGERHOOD: Correct.

3           THE COURT: Do you think that in large part this has  
4           been done?

5           MR. FINGERHOOD: Yes. In fact, we just heard a status  
6           report as far as the progress that has been made, and, you  
7           know, there are still things that need to be done, and those  
8           are, you know, being done, and there has been consultation  
9           between, you know, the third-party manager and the State and  
10          EPA on -- on all those technical issues, and that's why I  
11          said at the beginning of our remarks I didn't have anything  
12          to add to the third-party manager's update.

13          THE COURT: Okay. And then number two: "appoint  
14          Edward 'Ted' Henifin as the Interim Third-Party Manager to  
15          manage the City's drinking water system and implement the  
16          Priority Protects List."

17          Are you of the opinion that he has done a good job in  
18          doing these things?

19          MR. FINGERHOOD: Yes. I think I said that earlier,  
20          that he has been giving the status reports and he has been  
21          coordinating with both the State and EPA on, you know, what  
22          he has been doing, what he is planning on doing, and I have  
23          heard no concerns from my client on -- as far as the work  
24          that is being done on the priority projects list and the  
25          updates he has been giving to the Court and the regulators.

1           THE COURT: This Court has been tasked with  
2           oversighting these matters. Are there some matters that the  
3           EPA feels that the Court could be stronger in providing its  
4           oversight in as opposed to what it has done thus far?

5           MR. FINGERHOOD: No, Your Honor. And if we did feel  
6           that way, we would bring an appropriate pleading and ask  
7           Your Honor to do that, but, you know, we haven't filed any  
8           such pleading.

9           THE COURT: And then the last one on here: "delay  
10          further litigation while the parties (EPA, MSDH, DOJ, and  
11          the City) work on a long-term solution."

12          Now, isn't that what is being done now under Henifin,  
13          trying to determine a long-term solution? But before we get  
14          to a long-term solution, we have to address the short-term  
15          problems to put ourselves on an even keel to even think  
16          about the long term. And do you agree with that since there  
17          are some issues that still need to be resolved?

18          MR. FINGERHOOD: Yes, sir. There is still work to be  
19          done even on the priority project list.

20          THE COURT: We still can't get to the financial  
21          stability that we need to be at because people are not  
22          paying their bills and are not even on the rolls. So we  
23          still have all those things to consider and to address. And  
24          then, of course, this matter of a long-term solution. Do  
25          you have one in mind that -- that is precious to you?

1 MR. FINGERHOOD: No, I don't, Your Honor. I do want  
2 to, I guess, maybe take a step back. You know, when we  
3 first negotiated the interim stipulated order, we didn't  
4 know about any of this money that was going to come from  
5 Congress. We were trying to figure out what we could do  
6 with the money that the City had and the revenue it was  
7 bringing in at the time, and Mr. Henifin agreed to kind of  
8 take the position under those circumstances.

9 You know, it was fortunate that Congress saw fit to  
10 provide that money. I think everybody would say -- I don't  
11 think it is controversial -- that that money, even though it  
12 is a terrific amount and has helped make tremendous  
13 progress, it is not enough to address all of the concerns  
14 that need to be met, especially when you factor in the sewer  
15 system, because none of that money can be used towards the  
16 sewer. All of the money from Congress primarily -- well,  
17 has to go either to capital improvement projects or the  
18 small portion that can be used for O and M.

19 THE COURT: I think I asked this question before on one  
20 of our previous occasions, but I'll ask it again: Have you  
21 ever taken a tour of Jackson to see firsthand its particular  
22 water problems and sewage problems?

23 MR. FINGERHOOD: I was on a small tour with Your Honor  
24 and --

25 THE COURT: That's the first time. And that was way



1 some time ago. But since then, have you taken one?

2 MR. FINGERHOOD: I have been in Jackson many times, and  
3 I have seen a lot of the infrastructure problems, the sewer  
4 overflows, and, you know, I'm also aware of them through,  
5 you know, our engineers, who meet frequently with the City  
6 and the State and Mr. Henifin, and they are all also aware  
7 of the progress that has been made since the interim order  
8 has been --

9 THE COURT: Was there ever a time you didn't trust  
10 drinking Jackson's water?

11 MR. FINGERHOOD: I always drank the water and --

12 THE COURT: Did you always trust it?

13 MR. FINGERHOOD: Yeah. I'm not a bottled water person  
14 personally, and, you know, there are certain other issues  
15 with, you know, bottles and all of that other stuff too, so  
16 I have always -- I use tap water.

17 THE COURT: So then --

18 MR. FINGERHOOD: But I don't live in Jackson and I  
19 haven't experienced the issues that the people who live here  
20 do. That is one of the reasons that we like to hear from  
21 the community. I know Your Honor has personally experienced  
22 many of these things. Some of the people I work with --  
23 AUSA Paige has experienced a number of these issues as well  
24 as some of the, you know, state and -- engineers who, you  
25 know, have been working on this case. So, you know, I know

1 this has been a long-running problem.

2 THE COURT: But you have seen the reports that say that  
3 the water here is safe.

4 MR. FINGERHOOD: I haven't seen the Yale report, but I  
5 have seen --

6 THE COURT: Well, that just happened.

7 MR. FINGERHOOD: Right. I have seen the EPA and the  
8 state reports about the -- you know, the water quality and  
9 also the recent PFA testing, which I think that rule  
10 actually has been finalized now, so there is an official  
11 limit on what can be in the water. And as Mr. Henifin  
12 accurately reported, Jackson's levels are way below that  
13 threshold.

14 THE COURT: Yeah. So far, these reports have been  
15 quite -- quite glowing towards Jackson. They show what  
16 Jackson has become as opposed to where it was. Of course,  
17 you know all that, though, because weren't you with Jackson  
18 and this crisis years and years and years ago?

19 MR. FINGERHOOD: Yes, Your Honor. I was one of the  
20 original people who worked on the sewer consent decree.

21 THE COURT: That's right. And that was a long time  
22 ago. And so, then, you then have firsthand knowledge; that  
23 is, from your filings and from your monitoring of Jackson's  
24 drinking and sewage problems for many years.

25 Would you say -- and if it puts you on the -- you know,

1 on the hook, just let me know, but would you say that  
2 Jackson has improved drastically in the last couple of years  
3 or so?

4 MR. FINGERHOOD: Yeah. I mean, I -- I don't think, you  
5 know, you need to take my word for it, but, you know, the  
6 reports are filed with the Court that show that, you know,  
7 there has been progress made, there has been water testing  
8 on the sewer side, there have been reports filed with MDEQ,  
9 so I think people can look and see that information is out  
10 there.

11 THE COURT: Well, I ask these questions because I would  
12 hate for the public to get the impression from this flier  
13 that you all suspect that Jackson is not doing well, but  
14 that is not what this flier is about, though, is it?

15 MR. FINGERHOOD: It's just to hear from the public both  
16 positive and negative. And as the third-party manager  
17 reported, when we did have the public comment period, the  
18 official public comment period, on the sewer stipulated  
19 order, the feedback was overwhelmingly positive.

20 THE COURT: Exactly. So I just wanted to be clear that  
21 this public service announcement is not the result of some  
22 criticism of Mr. Henifin's work at this point?

23 MR. FINGERHOOD: Correct. It's an opportunity to hear  
24 from the public.

25 THE COURT: It is just an opportunity for the public,

1        whoever they might be, to weigh in on what they think about  
2        the matter. But, of course, we recognize that much of the  
3        public does not really understand all of the issues that are  
4        here involved, only a portion; that is, what affects them  
5        directly, as to whether their house is flooded or whether  
6        their house does not have any water.

7                But, of course, Mr. Henifin and his crew are open to  
8        those telephone calls to come in to tell them that so that  
9        it can get started immediately what they have been doing,  
10       but that this flier and that this meeting, they are not the  
11       product of some criticism from EPA or from the Justice  
12       Department where they are -- where you all are investigating  
13       the City and its problems as though it needs more than a  
14       Band-Aid.

15               MR. FINGERHOOD: No, that's -- that's -- you have said  
16       it correctly. There is no investigation. We just want to  
17       hear from the public positive, negative. Just want to hear  
18       what they have to say, you know, get their thoughts.

19               THE COURT: Okay. But I still repeat that I'm  
20       surprised that the EPA would be anchoring a proceeding which  
21       is guaranteed to, from what I have heard so far, present  
22       people of unidentified identities, unidentified names,  
23       addresses, and legitimacy as to what they are talking about.  
24       These folk just simply might be folk who, for some reason,  
25       don't like the consent decree or might be some people who

1 just don't like the Court's involvement vis the involvement  
2 and the control of the City or might be some people who just  
3 don't like our third-party interim manager. And I can't for  
4 the life of me under this procedure that you are proposing,  
5 see how that's supposed to be helpful when you will not know  
6 the integrity, will not know the legitimacy of the comments.  
7 I don't quite understand that.

8       Everybody who appeared before me at my last status  
9 conference I allowed to come to the microphone, state  
10 his/her name, address, connection so that anyone who wanted  
11 to know if they had a legitimate gripe could investigate  
12 what they said and understand from whence they are coming.  
13 But under the procedure you just explained, anybody could  
14 show up. Like I said, it could be a passing truck driver  
15 who drives interstate, just stopped at the meeting because  
16 it looked interesting and come in and start making  
17 complaints about water which might actually emanate from his  
18 hometown in Flint, Michigan.

19       So we have no idea where these people might be coming  
20 from and what they might be saying, and yet two reputable  
21 agencies are inviting them to come out to allegedly provide  
22 input that's supposed to be helpful. I don't understand how  
23 you can even say that's helpful. But nevertheless, that is  
24 what you have chosen to do, and so I'll go with that.

25       So let me see what I have here. Hold on just for a

1 second.

2 Oh, yeah. There was one other matter. This -- let's  
3 see. There was a note. It's not on this document. It's on  
4 another one. I'm asking about a letter from the mayor's  
5 office that went to the EPA administration that I have a  
6 copy of here. This letter is dated March 27, 2024. And in  
7 this letter were some criticisms of the third-party manager,  
8 Mr. Henifin. Are you familiar with that letter?

9 MR. FINGERHOOD: I believe I have seen a copy of it.

10 THE COURT: Well, I ask because this letter has a  
11 number of items in it that this Court took up at its last  
12 status conference, and you were at that last status  
13 conference where I expressed my displeasure to some of the  
14 people who appeared at the podium there to make their  
15 complaints about what had been ongoing. Some of those  
16 complaints were ridiculous, but nevertheless, I wrote an  
17 opinion, a response, later as to those. In fact, I pointed  
18 out how a number of persons simply had some misinformed  
19 ideas and even some racist ideas, and so I pointed all of  
20 that out in my public response to those people who had  
21 chosen to address the City on their comments which were not  
22 informed.

23 But my question is: Since this letter is dated back in  
24 March 27, '24, do you know whether your agency was anyway  
25 motivated to have these conferences that we are now talking

1 about by that last status conference and some of those  
2 comments that were made there and by this office -- in this  
3 letter from the mayor's office?

4 MR. FINGERHOOD: No, I'm not sure if the letter was  
5 actually filed with the Court. I do recall seeing that,  
6 but, no --

7 THE COURT: But you did read the letter?

8 MR. FINGERHOOD: -- I have no knowledge of that.

9 THE COURT: But you did read the letter?

10 MR. FINGERHOOD: Oh, yeah. I think EPA may have  
11 responded to it.

12 THE COURT: Yeah. You saw my response.

13 MR. FINGERHOOD: I think EPA issued a --

14 THE COURT: Huh?

15 MR. FINGERHOOD: I think EPA responded as well.

16 THE COURT: And what did you think about my response  
17 when I criticized some of those persons who had appeared  
18 before this Court for their racist comments where they said  
19 that their problem with Mr. Henifin was that he was white  
20 and that he was also from out of state? What did you think  
21 about that?

22 MR. FINGERHOOD: I have no position on that, Your  
23 Honor.

24 THE COURT: You think it might be right?

25 MR. FINGERHOOD: I have no position on that.

1 THE COURT: Well, do you agree with it? Do you think  
2 that is a valid criticism? I'm putting you on the line  
3 here. You represent EPA here, and I'd like to know what  
4 EPA's position is here.

5 MR. FINGERHOOD: I don't think EPA has any official  
6 position on that.

7 THE COURT: Do you think EPA is racist?

8 MR. FINGERHOOD: I -- I have not seen that in my  
9 experience.

10 THE COURT: So, then, EPA would be against any racist  
11 comments, then, wouldn't they?

12 MR. FINGERHOOD: Yes, I think --

13 THE COURT: Or do you think that EPA harbors some race  
14 against Jacksonians?

15 MR. FINGERHOOD: No, I don't think that.

16 THE COURT: So, then, you would agree with me, then  
17 that if those comments that I emphasize and isolated were  
18 racist, then you would agree that EPA would be against those  
19 comments, wouldn't you?

20 MR. FINGERHOOD: (Inaudible).

21 THE COURT REPORTER: Can you repeat that?

22 THE COURT: He said EPA does not take any position on  
23 that.

24 Is that correct?

25 MR. FINGERHOOD: I think there was a transcript, and



1 people can look at the transcript and read Your Honor's  
2 opinion and --

3 THE COURT: But you can read it too, though, can't you?

4 MR. FINGERHOOD: I can, but my --

5 THE COURT: And you then have a -- you then have a  
6 notion of what racism is, don't you?

7 MR. FINGERHOOD: My own personal opinions are not  
8 before this Court.

9 THE COURT: Okay. So EPA -- but you speak --

10 MR. FINGERHOOD: EPA and DOJ have not taken any --

11 THE COURT: But you speak for them right now, though,  
12 don't you?

13 MR. FINGERHOOD: On -- on the matters that are, you  
14 know, being litigated before the Court.

15 THE COURT: Well, I mean, you don't think that matter  
16 was being litigated here in court about criticisms against  
17 what was taken place? You don't think that is official?

18 MR. FINGERHOOD: There has been criticism. There has  
19 been praise. There have been both. And I'm here to follow  
20 the law and argue on behalf of the United States and EPA.

21 THE COURT: Well, I'm just trying to determine why did  
22 you come to hold what is, in my estimation, an unusual  
23 session after you have received a letter from the mayor.

24 MR. FINGERHOOD: Yeah. This public meeting is not  
25 motivated in any fashion by the mayor's letter. We are just

1       trying to hear from the public. If it would be helpful, I  
2       could provide this Court with a list of EPA outreach  
3       meetings that they have held on various matters, you know,  
4       in the past year and you can see that it's widespread not  
5       just through EPA but throughout other federal agencies as  
6       well.

7               THE COURT: Was this letter taken into account at all  
8       in your decision to hold these ad hoc meetings?

9               MR. FINGERHOOD: To my knowledge, no.

10              THE COURT: Let me ask you more directly. Is this  
11       letter from the mayor some sort of foundation for the EPA  
12       and Justice Department taking a contrary view of the  
13       progress that is being made in Jackson under Ted Henifin?

14              MR. FINGERHOOD: No. I mean, I think we have been  
15       clear on the record today at the status report that we were  
16       pleased with the progress that has been made.

17              THE COURT: Well, I just wanted to know whether there  
18       is some effort to try and undermine that progress, because  
19       for years, you know, we had no progress. In fact, we had  
20       nothing. And so I was making sure that this letter here was  
21       not some foundation for you all coming in here to advise the  
22       public that, quote, "Community input needed for City of  
23       Jackson drinking water system," because that is the heading  
24       on this matter. It could give a different impression to  
25       someone that the EPA, the powerful Environmental Protection

1 Agency, and the Justice Department are coming here to  
2 investigate what has been going on down here. But you  
3 didn't come for that, though, did you?

4 MR. FINGERHOOD: No. We just came to hear from the  
5 public.

6 THE COURT: So there is no investigatory effort expect  
7 to be expended on this matter, is it?

8 MR. FINGERHOOD: Not that I'm aware of. This is to --  
9 a public meeting for people to, you know, hear from the  
10 public. You know, they may have good things to say; they  
11 may have complaints. And maybe to the extent, like I said  
12 before, you know, people had a backup in their home, so we  
13 let the third-party manager know about that, and I think he  
14 responded to those fairly quickly. So they may hear some of  
15 that tonight too. And we will, of course, again, pass those  
16 on to his --

17 THE COURT: Your brain trust has another note for you.

18 MR. FINGERHOOD: Also, when we had the prior meetings  
19 too, we promised the community that, you know, we wouldn't  
20 just kind of come in once, hear from them, and never hear  
21 from them again. So we also did say, you know, we will be  
22 back to hear from you at some point in the future. So this  
23 is some point in the future.

24 There may be, even further down the line, additional  
25 outreach meetings. We will make sure we give the Court

1 advance notice of any such future ones. But it's a process  
2 that EPA and other agencies have been doing more so recently  
3 in the last few years.

4 THE COURT: Okay. Well, you have something you want to  
5 add? I have asked you a lot of questions, and I don't to  
6 shortchange your responses. So if you have something you  
7 want to say, you can talk to your brain trust over there for  
8 a moment and see if there is something that you should close  
9 out with. Okay? So go right ahead.

10 MR. FINGERHOOD: Okay. Thank you, Your Honor.

11 THE COURT: Okay.

12 MR. FINGERHOOD: The brain trust has nothing further,  
13 Your Honor.

14 THE COURT: Are you all sure?

15 Ms. Williams, are you all sure that you don't have  
16 anything?

17 MS. WILLIAMS: Yes, Your Honor, we are.

18 THE COURT: If you all have another note for him, go  
19 ahead and give it to him now.

20 MS. WILLIAMS: We would if we did, Your Honor, but we  
21 don't. We appreciate your graciousness, though.

22 THE COURT: Okay. Thank you.

23 And, Ms. Paige, I assume that both of you all were  
24 acting together?

25 MS. PAIGE: Yes, Your Honor. She speaks for me as

1 well.

2 THE COURT: Okay, then. Thank you very much. You got  
3 two able people sitting next to you.

4 MR. FINGERHOOD: Very fortunate.

5 THE COURT: All right, then. Now, of my original  
6 plaintiffs and defendants, I want to hear from you on the  
7 status.

8 And so now, Mr. Henifin, is there something else you  
9 want to add?

10 MR. HENIFIN: There is. I hate to go there.

11 THE COURT: Go ahead.

12 MR. HENIFIN: I think this horse has been beaten, but  
13 I'll continue to whip it.

14 So on this meeting tonight, the flier that was sent  
15 that was delivered to me, had a link at the bottom: "For  
16 more information." When you click on that link, it takes  
17 you to the EPA website. Last paragraph of the EPA website  
18 says, "The EPA and DOJ have heard from the public in  
19 previous meeting, letters, emails, and phone calls about  
20 what matters to you concerning the future of the drinking  
21 water system. This has included a desire to hire from  
22 within the community and use local contractors, requests for  
23 increased transparency and information, the importance of  
24 ensuring accountability and equity, and the importance of  
25 having a voice about the future of the system. Through

1       these meetings, the EPA and DOJ are hoping to receive input  
2       on several different items where your voice could have an  
3       impact."

4             Take you back to the letter from May 27th (sic) you  
5       were referring to. Mayor highlights five issues. Four of  
6       those issues are listed in that same area: the use of local  
7       contractors and hiring from within is the "Lack of  
8       Competitive Procurement," number 1 in the mayor's letter.

9             "Insufficient Communication and Coordination" would  
10       line right up with "transparency and information."

11            "Uncertainty in Financial Planning" is the  
12       "accountability and equity."

13            And finally, the improper support of the legislation  
14       that was proposed was the voice in the future of the system.

15            So I would believe that somehow this letter is linked  
16       to this meeting.

17            THE COURT: Well, let's go back to the EPA. You all  
18       just happened to utilize the same four out of five factors  
19       that the mayor's letter included?

20            MR. FINGERHOOD: Those are concerns that were raised by  
21       the public, and I think the third-party manager has been --  
22       has made efforts to accommodate those. For example, when we  
23       did negotiate the stipulated order, he now has quarterly  
24       public meetings. He also started the JXN Water Academy,  
25       which allows people to learn about the drinking water

1 system.

2 So we have, you know, spoken with him about these  
3 concerns, and he has taken steps to incorporate those. He  
4 has on his website, you know, list transparency about, you  
5 know, the local contractors he has used and the minority  
6 business enterprises that he has been contracting with.

7 Now, as he explains, and this is a valid point, you  
8 know, Jacobs Engineering that runs the plant is a large  
9 national, maybe international, firm, and so they hire people  
10 from all over, and, you know, financially that's where most  
11 of the money goes. There's a national shortage of qualified  
12 water engineers. That is one of the reasons, you know, the  
13 system got to be where it was. And so -- but it's all  
14 been -- there is transparency now. He has been posting this  
15 information.

16 There are -- people commented about, well, where is the  
17 money going? He has a tracker on his website that you can  
18 go and see, you know, where the money -- and it has pie  
19 charts and things.

20 So there are things that were raised, and we mentioned  
21 them to him, and he has taken steps to -- to try and  
22 incorporate those into both his website and, you know,  
23 notices. And, you know, he now has, you know, public  
24 relations or public affairs people who help also kind of  
25 reach out and kind of let the public know what is being

1 done.

2 So that's all I have to say.

3 THE COURT: So you are telling me that the mayor's  
4 letter which mentioned these in particular and these same  
5 factors ended up being in your notice are just a  
6 coincidence?

7 MR. FINGERHOOD: It is the same issues that have been  
8 raised.

9 THE COURT: You are saying it is a coincidence and that  
10 you were not influenced by the mayor's letter?

11 MR. FINGERHOOD: No, I don't believe that to be the  
12 case.

13 THE COURT: Well, then who wrote that flier?

14 MR. FINGERHOOD: Huh?

15 THE COURT: Who wrote the flier?

16 MR. FINGERHOOD: Someone at the EPA public relations.

17 THE COURT: And it just happened to identify the same  
18 four out of five factors that the mayor said in almost the  
19 same language?

20 MR. FINGERHOOD: I don't know. I can't speak to what  
21 the mayor wrote or where he got those factors.

22 THE COURT: Well, you have the mayor's letter, don't  
23 you? And you had a flier.

24 MR. FINGERHOOD: I have seen it, yeah.

25 THE COURT: Well, can you just compare those just for a



1 second and tell me if that was just a coincidence?

2 MR. FINGERHOOD: To my knowledge, I think those are the  
3 things that have been raised in the public, both before the  
4 letter -- I don't think those are things that, you know --  
5 wasn't any specific thing. I think, you know, we have  
6 probably mentioned those to the third-party manager in the  
7 past, and that, I think, is why he, you know, has made some  
8 of the things -- you know, I don't where the mayor --

9 THE COURT: You know, that transparency matter was  
10 something that the group that came in front of me last time  
11 constantly talked about, but yet when I asked them what they  
12 meant by "transparency," apparently they didn't have a  
13 dictionary to look that word up, because they didn't know.  
14 And so I had asked them what was not transparent.

15 Just a few moments ago, you gave all the -- not all,  
16 but you gave various matters where our third-party manager  
17 has endeavored to be just that: transparent. So, then, why  
18 is that one of the matters you want to investigate when you  
19 just said that there has been so much progress in that area?

20 MR. FINGERHOOD: I didn't say, Your Honor -- with all  
21 due respect, I don't think we said we are investigating  
22 anything.

23 THE COURT: Well, it is --

24 MR. FINGERHOOD: We want to hear from the public.

25 THE COURT: It says "Community input needed," and then

1 Mr. Henifin read that footnote. So did you not read the  
2 footnote in your own flier?

3 Mr. Henifin, was that a footnote in that flier?

4 MR. HENIFIN: Yes, Your Honor. It was -- the flier  
5 that they prepared had a "For more information," go to this  
6 link, and that is where I went to and found the information  
7 I just relayed.

8 THE COURT: I see.

9 MR. FINGERHOOD: I mean, I -- those are concerns we  
10 have heard for, you know, some time, and, as I said, we have  
11 relayed those to Mr. Henifin, and he has made efforts to  
12 address those. We have heard that, you know, beginning back  
13 in -- I think it was March of 2023, when we had meetings  
14 with some of the smaller groups, the schools, the hospitals,  
15 the business leaders, so I don't think it was something new.  
16 I don't think it was related to the letter from the mayor.

17 THE COURT: Sounds rather suspicious, doesn't it?

18 MR. FINGERHOOD: I -- I mean, I think these have been,  
19 you know, out there in the press and people have been saying  
20 these things, and, you know, there have been -- we have  
21 relayed them. And, you know, you mentioned the -- the  
22 hearing. I think that may have preceded some of these  
23 changes that were made to the sewer stipulated order and  
24 also some of the additions to the website that, you know,  
25 Mr. Henifin and JXN Water have made to include a lot more

1 information. And, you know, there is -- you know, he has  
2 the 24-hour hotline too. I think a lot of efforts have been  
3 made to address the concerns.

4 Now, I'm sure people still may have some concerns, and  
5 we'll hear what they are and we'll -- to the extent they  
6 relate to, you know, what EPA is doing, what the State is  
7 doing, what the third-party manager is doing, we'll pass  
8 those along as well.

9 THE COURT: I want to be sure about this last point,  
10 and then we'll finish. You are speaking on behalf of EPA,  
11 aren't you?

12 MR. FINGERHOOD: Yes. EPA is my client.

13 THE COURT: And so you are speaking on EPA's behalf.

14 MR. FINGERHOOD: Correct.

15 THE COURT: So the answers you have provided here are  
16 answers that are binding EPA as to what EPA's mission is  
17 here and EPA's recognition of what has been accomplished  
18 here?

19 MR. FINGERHOOD: Correct. We have -- I have stated  
20 EPA's position on the status report, and the public outreach  
21 meetings are merely just to hear from the public.

22 THE COURT: And EPA is committed to assisting this  
23 project, to assisting this Court, to assisting Mr. Henifin,  
24 to assisting the water industry, and to assisting the  
25 sewage, you know, efforts to ensure that the citizenry of

1 Jackson are getting what they should get as citizens of this  
2 city, and so EPA is not interested in working against those  
3 interests, is it?

4 MR. FINGERHOOD: No, Your Honor. Our interest is  
5 ensuring that the laws with respect to safe drinking water  
6 and the laws related to clean water are complied with both  
7 here in Jackson as they are everywhere else in the United  
8 States.

9 THE COURT: So EPA and Justice are committed to  
10 handling this matter in a justiciable manner to be fair to  
11 the citizens of Jackson and not to, for instance, the  
12 mayor's administration?

13 MR. FINGERHOOD: No. Our obligation is to the citizens  
14 of the United States and the people of Jackson.

15 THE COURT: Citizens of Jackson. I also threw in the  
16 "citizens of Jackson."

17 MR. FINGERHOOD: And the citizens of Jackson to ensure  
18 that the laws applying to safe drinking water and clean  
19 water are applied to them just as they are everywhere else  
20 in the country.

21 THE COURT: So you do not see your agency as being a  
22 tool of city government here?

23 MR. FINGERHOOD: No. We are here to work with the --  
24 to enforce the federal laws.

25 THE COURT: No matter where they fall? No matter --

1 MR. FINGERHOOD: Right. Right.

2 THE COURT: Whether they fall --

3 MR. FINGERHOOD: I guess Your Honor knows we had a  
4 disagreement over what the law provided with respect to SNAP  
5 recipients' information.

6 THE COURT: That's right.

7 MR. FINGERHOOD: And I know you didn't like my position  
8 there, but I felt that that was the position of -- that was  
9 provided for in the statute, and you disagreed with me and  
10 issued an order.

11 THE COURT: Well, I understand --

12 MR. FINGERHOOD: So that happens, but that's my -- my  
13 obligation is to --

14 THE COURT: And I want you to continue to support your  
15 obligation. I understand why you took that position. At  
16 least I could understand it, because there was some  
17 language, and I understand that if you follow that language,  
18 then you come out with your interpretation. And so,  
19 therefore, there was another interpretation that I would  
20 have preferred, but nevertheless, I understand that  
21 reasonable minds can differ, and therefore, I agree with you  
22 on taking your stance, because I anticipated what you would  
23 say. I didn't like what it was because I was hoping for a  
24 different outcome, but it didn't happen. But nevertheless,  
25 this Court took no umbrage at what you said, and the Court

1 thoroughly respected you in your legal opinion, and you had  
2 a certain requirement to follow the law as you read it, your  
3 agency read it, and I understood what they did, and it is  
4 actually a reasonable interpretation.

5 It is up to another court to make a determination as to  
6 whether there can be a quote/unquote exception or whether  
7 there can be a broadening of the category as I had hoped  
8 that we could have. But if the court -- but if they decide  
9 they don't want to broaden that category to include this  
10 matter, that's certainly within the court's prerogative, but  
11 it still is a reasonable matter.

12 But there are some things that just aren't reasonable,  
13 and some of those people who appeared in front of me before  
14 who were talking about what their criticisms were, that was  
15 not reasonable. It is not reasonable to say that they are  
16 opposed to Mr. Henifin because he is white. That is not  
17 reasonable. That is racist. It is not reasonable for them  
18 to say that they were opposed to him because he hailed from  
19 Virginia.

20 That is not reasonable. We are looking for a qualified  
21 person to take over the system, and he has shown many times  
22 over that he is fully capable of doing exactly that, and we  
23 had nobody on the scene who could have done what he is  
24 doing. We didn't have anybody who could have stepped in his  
25 shoes and performed as he's performing, because these folk

1 don't understand anything about water. They don't  
2 understand the diseases. They don't understand how the  
3 plants work. But yet they have an opinion, which I would  
4 hope before they get up and tell me what their criticisms  
5 are, they at least understand what the real problems are.  
6 And the ones who appeared in front of me last time certainly  
7 didn't, and that was evident from the questions I asked them  
8 and the nonsensical answers that most of them gave.

9 So I'm not upset about that, so make sure you  
10 understand that. And as long as you practice in my court,  
11 then what I want from you is your honest opinion if I ask  
12 for it on what the law is and what the facts are, and you  
13 give me that and you and I are in good shape. And so I have  
14 no problem with that, that matter you mentioned.

15 But I do have a question about this mayor's letter and  
16 how it includes some criticisms that found its way into this  
17 particular notice to the public. I do have that. The  
18 mayor, it seems to me, is not a friend of this endeavor to  
19 straighten out this mess, so I hope that's wrong, and I hope  
20 that if he has been antagonistic before, I hope he  
21 recognizes that we all need to work together for the  
22 betterment of the citizenry of Jackson. And that is why you  
23 are down here, correct?

24 MR. FINGERHOOD: Yes, Your Honor.

25 THE COURT: Okay, then. Thank you so much, because

1       that's what I think Mr. Henifin has been doing all along.

2               Now, then, good folk, thank you all very much, and  
3       there's a transcript of this matter. If any of you want to  
4       get a transcript, there's my court reporter there, and she  
5       will gladly give you a copy of this transcript at a small  
6       cost to you. But she will have it prepared for you in great  
7       order.

8               Now, then, thank you all very much. I'm adjourned.

9                       (Court adjourned at 4:58 p.m.)

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**COURT REPORTER'S CERTIFICATE**

I, Caroline Morgan, Official Court Reporter for the United States District Court for the Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true, and correct transcript of the proceedings had in the forenamed case at the time and place indicated, which proceedings were stenographically reported by me to the best of my skill and ability.

I further certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

THIS, the 18th day of October, 2024.

/s/ Caroline Morgan, CCR

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